



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 3] नई दिल्ली, जनवरी 10—जनवरी 16, 2016, शनिवार/पौष 20—पौष 26, 1937
No. 3] NEW DELHI, JANUARY 10—JANUARY 16, 2016, SATURDAY/PAUSA 20—PAUSA 26, 1937

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 1 जनवरी, 2016

का.आ. 81.—वर्ष 2000 में यथा संशोधित भारतीय लघु उद्योग विकास बैंक अधिनियम, 1989 की धारा 6 (1) (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री पंकज जैन, आईएएस (एएम:1990), संयुक्त सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय, नई दिल्ली को तत्काल प्रभाव से और अगले आदेशों तक, श्री आलोक टण्डन के स्थान पर भारतीय लघु उद्योग विकास बैंक (सिडबी) के निदेशक मण्डल में निदेशक नामित करती है।

[फा. सं. 3/2/2011—आई एफ—I]

सौम्यजीत घोष, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Service)

New Delhi, the 1st January, 2016

S.O. 81.—In exercise of the powers conferred by Section (6) (1) (c) of the Small Industries Development Bank of India Act, 1989 as amended in the year 2000, the Central Government hereby nominates Shri Pankaj Jain, IAS (AM: 1990) Joint Secretary, Department of Financial Services, Ministry of Finance, New Delhi as a Director on the Board of Small Industries Development Bank of India (SIDBI) with immediate effect and until further orders vice Shri Alok Tandon.

[F. No. 3/2/2011-IF-I]

SOUMYAJIT GHOSH, Under Secy.

नई दिल्ली, 1 जनवरी, 2016

का.आ. 82.—भारतीय निर्यात-आयात बैंक अधिनियम, 1981 (1981 का 28) की धारा 6 की उप-धारा (1) के खंड (ड) के उप-खंड (i) के अनुसरण में, केन्द्रीय सरकार एतद्वारा, श्री पंकज जैन, आईएस(एएम:1990), सयुक्त सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय, नई दिल्ली को तत्काल प्रभाव से और अगले आदेश होने तक, श्री आलोक टण्डन के स्थान पर भारतीय निर्यात-आयात बैंक (एक्जिम बैंक) के निदेशक मण्डल में निदेशक नामित करती है।

[फा. सं. 3/2/2011-आई एफ-1]

सौम्यजीत घोष, अवर सचिव

New Delhi, the 1st January, 2016

S.O. 82.—In pursuance of Sub- Clause (i) of Clause (e) of sub-section (1) of Section 6 of the Export Import Bank of India Act, 1981(No. 28 of 1981), the Central Government hereby nominates Shri Pankaj Jain, IAS (AM: 1990) Joint Secretary, Department of Financial Services, Ministry of Finance, New Delhi as a Director on the Board of Export Import Bank of India (Exim Bank) with immediate effect and until further orders vice Shri Alok Tandon.

[F. No. 3/2/2011-IF-1]

SOUMYAJIT GHOSH, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 7 जनवरी, 2016

का.आ. 83.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केन्द्र सरकार भारत के दूतावास, अबिदजान में श्री दीपक कुमार, निजी सहायक को दिनांक 7 जनवरी 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी. 4330/01/2015]

प्रकाश चन्द, उप सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 7th January, 2016

S. O. 83.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Deepak Kumar, PA in Assistant as Assistant Consular in Embassy of India, Abidjan to perform the Consular services with effect from 7 January, 2016.

[No. T. 4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 18 दिसम्बर, 2015

का.आ. 84.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम(2) और (4) के अनुसरण में रेलटेल कापोरेशन ऑफ इंडिया लिमिटेड, गुडगांव, जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करता है।

[सं. हिंदी 2015/रा.भा.1/12/2]

के . पी. सत्यानंदन, निदेशक, (राजभाषा)

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

New Delhi, the 18th December, 2015

S.O. 84.—Ministry of Railways (Railway of Board) in pursuance of Sub-Rule (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the Official purposes of the Union) hereby, notify the Railtel Corporation of India Limited, Gurgaon, where 80% or more Officers/ Employees have acquired the working knowledge of Hindi.

[No. Hindi 2015/O. L-1/12/2]

K. P. SATHYANANDAN, Director (OL)

नई दिल्ली, 20 दिसम्बर, 2015

का.आ. 85.—रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम(2) और (4) के अनुसरण में दक्षिण मध्य रेलवे के गुंतकल मंडल के अंतर्गत तिरुपति स्टेशन, जहां 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करता है।

[सं. हिंदी 2015/रा.भा.1/12/2]

के. पी. सत्यानंदन, निदेशक (राजभाषा)

New Delhi, the 20th December, 2015

S.O. 85.—Ministry of Railways (Railway Board) in pursuance of Sub-Rule (2) and (4) of Rule 10 of the Official Language Rules, 1976 (use for the Official purposes of the Union) hereby, notify Tirupatti Station under Guntkal Division of South Central Railway, where 80% or more Officers/Employees have acquired the working knowledge of Hindi.

[No. Hindi 2015/O. L.-1/12/2]

K. P. SATHYANANDAN, Director(OL)

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 9 दिसम्बर, 2015

का.आ. 86.—केन्द्र सरकार, भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय चिकित्सा परिषद से परामर्श करने के बाद, एतद्द्वारा उक्त अधिनियम की पहली अनुसूची में निम्नलिखित और संशोधन करती है, नामतः :-

उक्त प्रथम अनुसूची में

“श्रीमंत शंकरदेवा स्वास्थ्य विज्ञान विश्वविद्यालय, गुवाहाटी, असम” के सामने शीर्षक ‘मान्यताप्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ (इसके आगे कॉलम (3) के रूप में संदर्भित) के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसन (एनाटोमी)”	एमडी(एनाटोमी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सिलचर मेडिकल कॉलेज, सिलचर असम में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में श्रीमंत शंकरदेवा स्वास्थ्य विज्ञान विश्वविद्यालय, गुवाहाटी, असम द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसन (फॉरेंसिक मेडिसन)”	एमडी(फॉरेंसिक मेडिसन) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सिलचर मेडिकल कॉलेज, सिलचर असम में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में श्रीमंत शंकरदेवा स्वास्थ्य विज्ञान विश्वविद्यालय, गुवाहाटी, असम द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसन (बायोकेमिस्ट्री)”	एमडी(बायोकेमिस्ट्री) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सिलचर मेडिकल कॉलेज, सिलचर असम में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में श्रीमंत शंकरदेवा स्वास्थ्य विज्ञान विश्वविद्यालय, गुवाहाटी, असम द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसन (फार्माकोलॉजी)”	एमडी(फार्माकोलॉजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सिलचर मेडिकल कॉलेज, सिलचर असम में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में श्रीमंत शंकरदेवा स्वास्थ्य विज्ञान विश्वविद्यालय, गुवाहाटी, असम द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)

(ख) प्रथम अनुसूची में “डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश” के सामने शीर्षक ‘मान्यताप्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ [इसके आगे कॉलम (3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसन (फार्माकोलॉजी)”	एमडी(फार्माकोलॉजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो शदन चिकित्सा आयुर्विज्ञान संस्थान अनुसंधान केन्द्र एवं शिक्षण अस्पताल, हैदराबाद में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसन (जनरल मेडिसन)”	एमडी(जनरल मेडिसन) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो शदन चिकित्सा आयुर्विज्ञान संस्थान अनुसंधान केन्द्र एवं शिक्षण अस्पताल, हैदराबाद में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)

“डॉक्टर ऑफ मेडिसिन (एनाटोमी)”	एमडी(एनाटोमी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो डॉ. पिन्नाम्मेनेनी सिद्धार्थ आयुर्विज्ञान संस्थान अनुसंधान फाउंडेशन, चिन्नाऔत्पल्ली, आंध्र प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (फिजियोलोजी)”	एमडी(फिजियोलोजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो डॉ. पिन्नाम्मेनेनी सिद्धार्थ आयुर्विज्ञान संस्थान अनुसंधान फाउंडेशन, चिन्नाऔत्पल्ली, आंध्र प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“लाइसिंगोलोजी एवं ओटोलोजी में डिप्लोमा”	डीएलओ (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो नारायण मेडिकल कालेज, नेल्लोर, आंध्र प्रदेश प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (फर्माकोलॉजी)”	एमडी(फर्माकोलॉजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो मेडिसिटी आयुर्विज्ञान संस्थान घानपुर, तेलंगाना में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (डर्मिटोलॉजी, वेनेरोलॉजी और लेप्रोसी)”	एमडी(डीवीएल) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो महाराजा आयुर्विज्ञान संस्थान नेल्लीमरेल्ला, विजयानगरम, आंध्र प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (सोशल एवं प्रिवेंटिव, मेडिसिन/कम्युनिटी मेडिसिन)”	एमडी(एसपीएम/कम्युनिटी मेडिसिन) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सांथीरम मेडिकल कालेज नंदयाल, आंध्र प्रदेश प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (रेडियो डायग्नोसिस)”	एमडी(रेडियो डायग्नोसिस) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सांथीरम मेडिकल नंदयाल, में आंध्र प्रदेश प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (मनोरोग विज्ञान)”	एमडी(मनोरोग विज्ञान) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सांथीरम मेडिकल कालेज नंदयाल, में आंध्र प्रदेश प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्व-विद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (डर्मिटोलॉजी, वेनेरोलॉजी और लेप्रोसी)”	एमडी(डीवीएल) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो भास्कर मेडिकल कालेज, येंकापल्ली में प्रशि-क्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)

“डॉक्टर ऑफ मेडिसिन (कम्यूनिटी मेडिसिन)”	एमडी(कम्यूनिटी मेडिसिन) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो चलमेड़ा आनन्दराव आयुर्विज्ञान संस्थान करीमनगर में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2012 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (पीडियाट्रिक्स)”	एमडी(पीडियाट्रिक्स) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो जीएसएल मेडिकल कालेज एवं अस्पताल, राजामुन्त्री, आंध्रप्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डिप्लोमा इन चाइल्ड हेल्थ”	डीसीएच (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो जीएसएल मेडिकल कालेज एवं अस्पताल, राजामुन्त्री, आंध्रप्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (डर्मिटोलॉजी, वेनेरोलॉजी और लेप्रसी)”	एमडी(डीवीएल) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो जीएसएल मेडिकल कालेज एवं अस्पताल, राजामुन्त्री, आंध्रप्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“मास्टर ऑफ सर्जरी (ओटो राईनो लेरिंगोलॉजी)”	एमडी(ईएनटी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो जीएसएल मेडिकल कालेज एवं अस्पताल, राजामुन्त्री, आंध्रप्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (फार्माकोलॉजी)”	एमडी(फार्माकोलॉजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो अल्लूरी सीतारामा राजु आयुर्विज्ञान आकदमी, ईलुरु, आंध्र प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“डॉक्टर ऑफ मेडिसिन (सोशल एवं प्रिवेंटिव मेडिसिन/कम्यूनिटी मेडिसिन)”	एमडी(एसपीएम/कम्यूनिटी मेडिसिन) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो अल्लूरी सीतारामा राजु आयुर्विज्ञान आकदमी, ईलुरु, आंध्र प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में डॉ. एनटीआर स्वास्थ्य विज्ञान विश्वविद्यालय, विजयवाड़ा, आंध्र प्रदेश द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)

(ग) प्रथम अनुसूची में “निजाम आयुर्विज्ञान संस्थान (मानित विश्वविद्यालय), हैदराबाद, आंध्र प्रदेश” के सामने शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके ओगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ [इसके आगे कॉलम (3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (बायोकेमिस्ट्री)”	एमडी(बायोकेमिस्ट्री) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो निजाम आयुर्विज्ञान संस्थान हैदराबाद में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में निजाम चिकित्सा विज्ञान संस्थान(मानित विश्वविद्यालय) हैदराबाद द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)

(घ) प्रथम अनुसूची में “बी. एन. विश्वविद्यालय, किशनगंज, बिहार” के सामने शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ [इसके आगे कॉलम(3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (फिजियोलोजी)”	एमडी(फिजियोलोजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो माता गुजरी मेमोरियल मेडिकल कालेज, किशनगंज, बिहार, में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में बी.एन.मंडल विश्वविद्यालय, किशनगंज, बिहार, द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)

(ङ) प्रथम अनुसूची में “इंदिरा गांधी आयुर्विज्ञान संस्थान (मानित विश्वविद्यालय), पटना, बिहार” के सामने शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ [इसके आगे कॉलम(3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (एनिसथियोलोजी)”	एमडी(एनिसथियोलोजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो इंदिरा गांधी आयुर्विज्ञान संस्थान पटना, बिहार में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में “इंदिरा गांधी चिकित्सा विज्ञान मान विश्वविद्यालय, पटना बिहार” द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)

(च) प्रथम अनुसूची में “आर्य भट्ट नालेज विश्वविद्यालय, पटना, बिहार” के सामने शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ [इसके आगे कॉलम(3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“मास्टर ऑफ सर्जरी (आर्थोपैडिक्स)”	एमएस(आर्थोपैडिक्स) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो नालंदा मेडिकल कालेज, पटना, बिहार में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में आर्य भट्ट नालेज विश्वविद्यालय, पटना, बिहार द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)

(छ) प्रथम अनुसूची में “गुरु गोबिन्द सिंह इंद्रप्रस्थ विश्वविद्यालय, नई दिल्ली के सामने शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ [इसके आगे कॉलम(3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“मास्टर ऑफ सर्जरी (एनाटॉमी)”	एमएस(एनाटॉमी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो वर्धमान महावीर मेडिकल कालेज एवं स्नात-कोत्तर संस्थान, सफदरजंग अस्पताल, नई दिल्ली में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में गुरु गोबिन्द सिंह इंद्रप्रस्थ विश्वविद्यालय, नई दिल्ली द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“मास्टर ऑफ सर्जरी (आर्थोपैडिक्स)”	एमएस(आर्थोपैडिक्स) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो ईएसआई-पीजीआईएमएसआर, ईएसआई-अस्पताल, बसईदारापुर, नई दिल्ली में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में गुरु गोबिन्द सिंह इंद्रप्रस्थ विश्वविद्यालय, नई दिल्ली द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)

“डॉक्टर ऑफ मेडिसिन (नेफ्रोलोजी)”	डीएम (नेफ्रोलोजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो स्नातकोत्तर चिकित्सा शिक्षा एवं अनुसंधान संस्थान, डॉ. आरएमएल अस्पताल, नई दिल्ली में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में गुरु गोबिन्द सिंह इंद्रप्रस्थ विश्वविद्यालय, नई दिल्ली द्वारा वर्ष 2013 में अथवा उसके पश्चात् प्रदान की गई हो।)
“मजिस्ट्रार चिरूरजी (न्यूरो सर्जरी)”	चि.एम. (न्यूरो सर्जरी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो स्नातकोत्तर चिकित्सा शिक्षा एवं अनुसंधान संस्थान, डॉ. आरएमएल अस्पताल, नई दिल्ली में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में गुरु गोबिन्द सिंह इंद्रप्रस्थ विश्वविद्यालय, नई दिल्ली द्वारा वर्ष 2013 में अथवा उसके पश्चात् प्रदान की गई हो।)

(ज) प्रथम अनुसूची में “गोवा विश्वविद्यालय गोवा,” के सामने शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ [इसके आगे कॉलम(3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“डिप्लोमा इन वेनेरोलॉजी एंड डर्मिटोलॉजी”	डी वी डी (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो गोवा मेडिकल कालेज, गोवा में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में गोवा विश्वविद्यालय, गोवा नई दिल्ली द्वारा वर्ष 1982 में अथवा उसके पश्चात् प्रदान की गई हो।)

(ज) प्रथम अनुसूची में “वीर नार्मद दक्षिण गुजरात विश्वविद्यालय, सूरत, गुजरात” के सामने शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत शीर्षक ‘पंजीकरण के लिए संपेक्षण’ [इसके आगे कॉलम(3) के रूप में संदर्भित] के अन्तर्गत अंतिम प्रविष्टि और उससे संबंधित प्रविष्टि के बाद निम्नलिखित शामिल किया जाएगा, अर्थात्:-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (फिजियोलोजी)”	एमडी(फिजियोलोजी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सूरत चिकित्सा शिक्षा एवं अनुसंधान म्युनिसिपल संस्थान, सूरत गुजरात में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में वीर नार्मद दक्षिण गुजरात विश्वविद्यालय, सूरत, गुजरात द्वारा वर्ष 2015 में अथवा उसके पश्चात् प्रदान की गई हो।)
“मास्टर ऑफ सर्जरी (ओटो राईनो लेरिंगोलॉजी)”	एमएस(ईएनटी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो सूरत चिकित्सा शिक्षा एवं अनुसंधान म्युनिसिपल संस्थान, सूरत, गुजरात में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में वीर नार्मद दक्षिण गुजरात विश्वविद्यालय, सूरत, गुजरात, द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)

(त) उक्त प्रथम अनुसूची में “सरदार पटेल विश्वविद्यालय, गुजरात” के बाद और शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके आगे कॉलम (2) के रूप में संदर्भित] के अंतर्गत अंतिम प्रविष्टि के सामने शीर्षक ‘पंजीकरण के लिए संक्षिप्त’ रूप [इसके बाद कॉलम (3) में संदर्भित] के अन्तर्गत उससे संबंधित प्रविष्टि में निम्नलिखित को अंतर्विष्ट किया जाएगा, नामतः :-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन मास्टर ऑफ सर्जरी(एनाटोमी)”	एमडी/एमएस(एनाटॉमी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो प्रमुख स्वामी मेडिकल कालेज करमसाद गुजरात में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में सरदार पटेल विश्वविद्यालय, गुजरात द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)

(थ) उक्त प्रथम अनुसूची में “सौराष्ट्र विश्वविद्यालय, राजकोट गुजरात” के बाद और शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कॉलम (2) में यथा संदर्भित] के अंतर्गत अंतिम प्रविष्टि के सामने शीर्षक ‘पंजीकरण के लिए संक्षिप्त रूप’ [इसके बाद कॉलम (3) में यथा संदर्भित] के अन्तर्गत उससे संबंधित प्रविष्टि में निम्नलिखित को अंतर्विष्ट किया जाएगा, नामतः :-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (इम्यूनो-हेमाटोलोजी एवं ब्लड ट्रान्सफ्यूजन)”	एमडी(आईएच एवं बीटी) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो एम. पी.शाह मेडिकल कालेज, जामनगर, गुजराज में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में सौराष्ट्र विश्वविद्यालय, राजकोट, गुजरात द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)

(द) उक्त प्रथम अनुसूची में “हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश” के बाद और शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कॉलम (2) में यथा संदर्भित] के अंतर्गत अंतिम प्रविष्टि के सामने शीर्षक ‘पंजीकरण के लिए संक्षिप्त रूप’ [इसके बाद कॉलम (3) में यथा संदर्भित] के अन्तर्गत उससे संबंधित प्रविष्टि में निम्नलिखित को अंतर्विष्ट किया जाएगा, नामतः :-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (बायोकेमिस्ट्री)”	एमडी(बायोकेमिस्ट्री) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो डॉ.राजेन्द्र प्रसाद राजकीय मेडिकल कालेज,टांडा हिमाचल प्रदेश में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में हिमाचल प्रदेश विश्वविद्यालय, शिमला, हिमाचल प्रदेश द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)

(ध) उक्त प्रथम अनुसूची में “संबलपुर विश्वविद्यालय, संबलपुर ओडिशा” के बाद और शीर्षक ‘मान्यता प्राप्त चिकित्सा अर्हता’ [इसके बाद कॉलम (2) के यथा संदर्भित] के अंतर्गत अंतिम प्रविष्टि के सामने शीर्षक ‘पंजीकरण के लिए संक्षिप्त रूप’ [इसके कॉलम (3) में यथा संदर्भित] के अन्तर्गत उससे संबंधित प्रविष्टि में निम्नलिखित को अंतर्विष्ट किया जाएगा, नामतः :-

(2)	(3)
“डॉक्टर ऑफ मेडिसिन (डर्मिटोलॉजी, वेनेरेलॉजी और लेप्रोसी)”	एमडी(डीवीएल) (यह एक मान्यता प्राप्त चिकित्सा अर्हता होगी जो वीएसएस मेडिकल कालेज, बुरला ओड़ीशा में प्रशिक्षित किए जा रहे विद्यार्थियों के संबंध में संबलपुर विश्वविद्यालय, संबलपुर, ओडिशा द्वारा वर्ष 2014 में अथवा उसके पश्चात् प्रदान की गई हो।)

सभी के लिए टिप्पणी: 1. स्नातकोत्तर पाठ्यक्रम के लिए स्वीकृत मान्यता 5 वर्ष की अधिकतम अवधि के लिए होगी जिसके बाद इसका नवीकरण किया जाएगा।

2. अपेक्षित अनुसार मान्यता को समय पर नवीकरण नहीं कराने के फलस्वरूप संबंधित स्नातकोत्तर पाठ्यक्रम में निरपवाद रूप से दाखिला बन्द हो जाएगा।

[सं. यू. 12012/674/2015-एमई (पी. II)]

डी. वी. के. राव, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 9th December, 2015

S.O. 86.—In exercise of the powers conferred by sub-section(2) of the section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said Schedule -

(a) against "Srimanta Shankardeva University of Health Sciences, Guwahati, Assam" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely:-

(2)	(3)
"Doctor of Medicine (Anatomy)"	MD (Anatomy) (This shall be a recognised medical qualification when granted by Srimanta Shankardeva University of Health Sciences, Guwahati, Assam in respect of students being trained at Silchar Medical College, Silchar, Assam on or after 2015).

"Doctor of Medicine (Forensic Medicine)"	MD (Forensic Medicine) (This shall be a recognised medical qualification when granted by Srimanta Shankardeva University of Health Sciences, Guwahati, Assam in respect of students being trained at Silchar Medical College, Silchar, Assam on or after 2015).
"Doctor of Medicine (Biochemistry)"	MD (Biochemistry) (This shall be a recognised medical qualification when granted by Srimanta Shankardeva University of Health Science Guwahati, Assam in respect of students being trained at Silchar Medical College, Silchar, Assam on or after 2015).
Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by Srimanta Shankardeva University of Health Science Guwahati, Assam in respect of students being trained at Silchar Medical College, Silchar, Assam on or after 2015).

(b) against "Dr. NTR, University of Health Sciences, Vijayawada, Andhra Pradesh" under the heading 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading 'Abbreviation for Registratioja' [hereinafter referred to as column (3)], the following shall be inserted, namely:—

(2)	(3)
"Doctor of Medicine (Pharmacology)"	MD (Pharmacology) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being/trained at Shadan Institute of Medical Sciences, Research Centre & Teaching Hospital, Hyderabad on or after 2015).
"Doctor of Medicine (General Medicine)"	MD (General Medicine) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Shadan Institute of Medical Sciences, Research Centre & Teaching Hospital, Hyderabad on or after 2015).
"Doctor of Medicine (Anatomy)"	MD (Anatomy) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Dr. Pinnammaneni Siddhartha Institute of Medical Sciences & Research Foundation, Chinnaoutpalli, Andhra Pradesh on or after 2015).
"Doctor of Medicine (Physiology)"	MD (Physiology) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Dr. Pinnammaneni Siddhartha Institue of Medical Sciences & Research Fuondation Chinnaoutpalli Andhra Pradesh on or after 2015).
"Diploma in Laryngology & Otology"	DLO (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Narayana Medical College, Nellore, Andhra Pradesh on or after 2011).

“Doctor of Medicine (Pharmacology)”	MD (Pharmacology) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Medicity Institute of Medical Sciences, Ghanpur, Telangana on after 2015).
“Doctor of Medicine (Dermatology, Venereology & Leprosy)”	MD (DVL) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Maharajah Institue of Medical Sciences, Nellimarella, Vizianagaram, Andhra Pradesh on or after 2015).
“Doctor of Medicine (Social & Preventive, Medicine/Community Medicine)”	MD (SPM/Community Medicine) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Santhiram Medical College, Nandyal Andhra Pradesh on or after 2014).
“Doctor of Medicine (Radio Diagnosis)”	MD (Radio Diagnosis) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Santhiram Medical College, Nandyal, Andhra Pradesh on after 2014).
“Doctor of Medicine (Psychiatry)”	MD (Psychiatry) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Santhiram Medical College, Nandyal, Andhra Pradesh on or after 2015).
“Doctor of Medicine (Dermatology, Venereology & Leprosy)”	MD (DVL) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Bhaskar Medical College, Yenkapally on or fater 2015).
“Doctor of Medicine (Community Medicine)”	MD (Community Medicine) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Chalmeda Anandrao Institute of Medical Sciences, Karimnagar on or after 2012).
“Doctor of Medicine (Paediatrics)”	MD (Paediatrics) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at GSL Medical College & Hospital, Rajahmundry, Andhra Pradesh on of after 2014).
“Diploma in Child Health”	D C H (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at GSL Medical College, and Hospital, Rajahmundry, Andhra Pradesh on or fater 2014).
“Doctor of Medicine (Dermatology, Venereology & Leprosy)”	MD (DVL) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at GSL Medical College & Hospital, Rajahmundry, Andhra Pradesh on of after 2015).

“Master of Surgery (Oto-Rhino-, Laryngology)”	MD (ENT) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at GSL Medical College & Hospital, Rajahmundry, Andhra Pradesh on or after 2014).
“Doctor of Medicine (Pharmacology)”	MD (Pharmacology) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Alluri Sitarama Raju Academy of Medical Sciences, Eluru, Andhra Pradesh on or after 2015).
“Doctor of Medicine (Social & Preventive Medicine/Community Medicine)”	MD (SPM/Community Medicine) (This shall be a recognised medical qualification when granted by Dr. NTR University of Health Sciences, Vijayawada, Andhra Pradesh in respect of students being trained at Alluri Sitarama Raju Academy of Medical Sciences, Eluru, Andhra Pradesh on or after 2015).

(c) against “Nizams Institute of Medical Sciences (Deemed University), Hyderabad, Andhra Pradesh” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Doctor of Medicine (Biochemistry)”	MD (Biochemistry) (This shall be a recognised medical qualification when granted by Nizams Institute of Medical Sciences (Deemed University), Hyderabad in respect of the students being trained at Nizams Institute of Medical Sciences, Hyderabad on or after 2015).

(d) against “B.N. Mandal University, Kishanganj, Bihar under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Doctor of Medicine (Physiology)”	MD (Physiology) (This shall be a recognised medical qualification when granted by B.N. Mandal University, Kishanganj, Bihar in respect of the students being trained at Mata Gujri Memorial Medical College, Kishanganj, Bihar on or after 2015).

(e) against “Indira Gandhi Institute of Medical Sciences (Deemed University), Patna Bihar under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Doctor of Medicine (Anaesthesiology)”	MD (Anaesthesiology) (This shall be a recognised medical qualification when granted by Indira Gandhi Institute of Medical Sciences (Deemed University), Patna Bihar in respect of the students being trained at Indira Gandhi Institute of Medical Sciences, Patna Bihar on or after 2014).

(f) against “Arya Bhatta Knowledge University, Patna, Bihar” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Master of Surgery (Orthopaedics)”	MS (Orthopaedics) (This shall be a recognised medical qualification when granted by Arya Bhatta Knowledge University, Patna, Patna Bihar in respect of the students being trained at Nalanda Medical College Patna, Bihar on or after 2014).

(g) against “Guru Gobind Singh Indraprastha University, New Delhi under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Master of Surgery (Anatomy)”	MS (Anatomy) (This shall be a recognised medical qualification when granted by Guru Gobind Singh Indraprastha University, New Delhi in respect of the students being trained at Vardhman Mahavir Medical College & Postgraduate Institute, Safdarjung Hospital, New Delhi on or after 2015).
“Master of Surgery (Orthopaedics)”	MS (Orthopaedics) (This shall be a recognised medical qualification when granted by Guru Gobind Singh Indraprastha University, New Delhi in respect of the students being trained at ESI-PGIMSR, ESI- Hospital, Basaidarapur, New Delhi on or after 2014).
“Doctor of Medicine (Nephrology)”	DM (Nephrology) (This shall be a recognised medical qualification when granted by Guru Gobind Singh Indraprastha University, New Delhi in respect of the students being trained at Postgraduate Institute, of Medical Education & Research, Dr. RML Hospital, New Delhi on or after 2013).
“Magistrar Chirurgiae (Neuro Surgery)”	M.Ch (Neuro Surgery) (This shall be a recognised medical qualification when granted by Guru Gobind Singh Indraprastha University, New Delhi in respect of the students being trained at Postgraduate Institute, of Medical Education & Research, Dr. RML Hospital, New Delhi on or after 2013).

(h) against “Goa University, Goa” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

“Diploma in Venereology & Dermatology”	DVD (This shall be a recognised medical qualification when granted by Goa University, Goa in respect of the students being trained at Goa Medical, Goa on or after 1982).
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(i) against “Veer Narmad South Gujarat University Surat, Gujarat” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Doctor of Medicine (Physiology)”	MD (Physiology) (This shall be a recognised medical qualification when granted by Veer Narmad South Gujarat University Surat, Gujarat in respect of the students being trained at Surat Municipal Institute of Medical Education & Research, Surat, Gujarat on or after 2015).

“Master of Surgery (Oto-Rhino-Laryngology)”	MD(ENT) (This shall be a recognised medical qualification when granted by Veer Narmad South Gujarat University Surat, Gujarat in respect of the students being trained at Surat Municipal Institute of Medical Education & Research, Surat, Gujarat on or after 2014).
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(j) against “Sardar Patel University Gujarat” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under the heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Doctor of Medicine/Master of Surgery” (Anatomy)	MD/MS(Anatomy) (This shall be a recognised medical qualification when granted by Sardar Patel University, Gujarat in respect of the students being trained at Pramukhswami Medical College, Karamsad, Gujarat on or after 2014).

(k) against “Saurashtra University, Rajkot, Gujarat” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Doctor of Medicine (Immuno-Haematology & Blood Transfusion)”	MD(IH&BT) (This shall be a recognised medical qualification when granted by Saurashtra University, Rajkot, Gujarat in respect of the students being trained at M.P. Shah Medical College, Jamnagar, Gujarat on or after 2014).

(l) against “Himachal Pradesh University, Shimla Himachal Pradesh” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Doctor of Medicine (Biochemistry)”	MD (Biochemistry) (This shall be a recognised medical qualification when granted by Himachal Pradesh University, Shimla Himachal Pradesh in respect of the students being trained at Dr. Rajendar Prasad Govt. Medical College, Tanda Himachal Pradesh on or after 2014).

(m) against “Sambalpur University Sambalpur Odisha” under the heading ‘Recognised Medical Qualification’ [hereinafter referred to as column (2)], after the last entry and entry relating thereto under heading ‘Abbreviation for Registration’ [hereinafter referred to as column (3)], the following shall be inserted namely:—

(2)	(3)
“Doctor of Medicine (Dermatology Venereology & Leprosy)”	MD(DVL) (This shall be a recognised medical qualification when granted by Sambalpur University Sambalpur Odisha in respect of the students being trained at VSS Medical College, Burla, Odisha on or after 2014).

- Note to all:**
1. The recognition so granted to a Postgraduate Course shall be for a maximum Period of 5 years, upon which it shall have to be renewed.
 2. Failure to Seek timely renewal of recognition as required shall invariably result in stoppage of admissions to the concerned Postgraduate Course.

[No. U. 12012/674/2015-ME (P. II)]
D. V. K. RAO, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 8 जनवरी, 2016

का.आ. 87.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 17/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/01/2016 को प्राप्त हुआ था।

[सं. एल-20012/91/2013-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 8th January, 2016

S.O. 87.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 17/2014) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 08/01/2016.

[No. L-20012/91/2013-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD.**In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act.
1947**Ref. No. 17 of 2014**Employer in relation to the management of W.J.Area, M/
S. BCCL

AND

Their workmen

Present: -Sri Ranjan Kumar Saran, Presiding Officer.**Appearances:**

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri S.C. Gour, Rep.

State: Jharkhand. Industry :-Coal

Dated 13-10-2015

AWARD

By Order No.L-20012/91/2013-IR (CM-I), dated. 17/02/2014, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Bhatdih Colliery under W.J.Area of M/S BCCL in dismissing Sri Kharu Gope from the service w.e.f. 19.10.2004 is fair and justified? To what relief the concerned workmen is entitled to?”

2. The case is received from the Ministry of Labour on 03.03.2014. After receipt of reference, both Parties are noticed, the Sponsoring Union/Workman files their written statement on 24.03.2014. The management also files written statement-cum-rejoinder on 10.10.2014. No evidence adduced by Both side.

3. The short point to be decided in this case is, whether the dismissal of the workman, who was found guilty by a session Court is proper or not.

4. The case of the workman is that, the workman was a permanent employee of M/S BCCL at Bhatdih Colliery designated as Trammer. One Criminal case was initiated against 5 villagers, including the concerned workman and due to rivalry and enmity. The concerned workman's name was falsely implicated in the police report and he was placed behind the bar. The sessions Court Bokaro found all the five persons including the concerned workman guilty and convicted them.

5. The management of Bhatdih Colliery, on the basis of judgment of Bokaro Sessions Court, issued a charge sheet in 2004 and after domestic enquiry and 2nd show cause notice dismissed the concerned workman in oct. 2004. One criminal appeal filed by the workman in Hon'ble High Court, Ranchi which was pronounced vide order dated 25.12.2009, acquitting the concerned workman from all charges. Thereafter the workman request from project officer/management to reinstate him with full back wages but the management did not take any action. Hence the present dispute arose.

6. The case of the management is that the police recorded FIR against the aforesaid accused persons including workman concerned and submitted charge sheet, and evidence of Anil Goswami was recorded by the police of ch as (Bokaro) in which he stated that when he came back to his house at 5.30 P.M on 13.10.2000, the accused persons including concerned workman suddenly entered into his house caught hold of him and forcibly dragged with an intention to kill assaulted him by Katara.

7. The management issued a charge sheet, conducted domestic enquiry in presence of concerned workman. The enquiry Officer found him guilty, thereafter issued 2nd show cause notice, after reply dismissed him.

8. The workman in this case submitted that against the order of conviction he carried an appeal to Hon'ble High Court vide Criminal Appeal No. 624/2004 and the said appeal was allowed and the concerned workman has been honorably acquitted.

9. Since the workman is acquitted, there was no reason to allow his order of dismissal to stand. It is also noticed that the workman has already been attained his date of superannuation on 30.06.2012.

10. Considering the facts and circumstances of this case, I hold that the action of the management of Bhatdih Colliery under W.J. Area of M/S BCCL in dismissing Sri Kharu from the service w.e.f. 19.10.2002 is not fair and justified. Hence his service continuously maintained and he be given all his retirement benefits but without any back wages.

This is my award

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 88.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 67/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/01/2016 को प्राप्त हुआ था।

[सं. एल-20012/82/2009-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 88.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 67/2009) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 08/01/2016.

[No. L-20012/82/2009-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of
I.D. Act, 1947

Ref. No. 67 of 2009

Parties : Employer in relation to the management of
Kustore, Area, M/s. BCCL

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri D.K. Verma, Advocate

For the workman : Shri S.C. Gour, Rep.

State: Jharkhand.

Industry :-Coal

Dated 22-12-2015

AWARD

By order No. L-20012/82/2009/IR (CM-1), dated 30/11/2009, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the management of Burragarh Colliery of M/S BCCL in not providing dependant employment to Sri Mahabir Manjhi S/O Late Mangal Manjhi, S.F Mazdoor, under the provision of NCWA is justified and legal? (ii) To what relief is the son of late Mangal Manjhi is entitled?”

2. This case is received from the Ministry of Labour on 16/12/2009, After receipt of the reference, both parties are noticed. The Sponsoring Union files their written statement on 03/05/2010, After long delay, the management files their written statement on 20/06/2012. One witnesses adduced from each side, And document of workman is marked as W-1 to W-7.

3. The case of the workman is That the concerned workman was a permanent employee of Burragarh Colliery of M/S BCCL under Kustore Area and during service period he passed away on 14/12/2001. and that time the son of late Mangal Manjhi was minor. He applied for keeping his name in the live roster as per provision of NCWA under which dependant's employment is to be provided but the employer did not keep his name of Mahabir Manjhi in live roster.

4. After attaining 18 years age, he filed all relevant paper for self employment, then he was referred to the Apex Medical Board of M/S BCCL and found him medically fit for employment. Thereafter the management made certain clarification to the points raised by the management. After satisfactorily replied, the management neither gave any other letter nor offered employment. Hence disputes arose.

5. On the other hand the case of the management, that the concerned workmen died at Central Hospital Dhanbad while in service in BCCL on 14.12.2001. After the

death of the deceased workman Second wife namely Vaijanti Mabjhiyan had applied for employment in place of her husband and the same is rejected by the management vide letter No. 13543 dated 22.9.2003.

6. On 2004 the under aged son of Late Mangal Manjhi applied for putting his name on the live roster of the company without required documents as per provision of NCWA. Therefore his name was not recorded in the live roster for future employment. After laps of several years the Sponsoring Union raised Present Industrial Dispute for Dependant employment which is not maintainable.

7. Short point to be decided in this reference is as to whether the Dependant is to get job in place of his deceased father as per NCWA or not.

8. The case of the workman is as the son of the deceased, he is to get job But on counter of the management submitted that after the death of the workman his wife applied for job but that was not accepted by the authority and thereafter his son applied for the job delayedly for which his claim was regretted.

9. In cross examination of Sri Sanjay Kumar (MW-1) he accept that the son of the deceased workman was applied for job. We sent him to medical test. He also says "It is a fact that before sending him to medical he was asked for query. But I can not say whether I receipt medical report, but he complied the query".

10. As per the admission of the MW-1, the Dependant son was sent him medical test but medical report is not filed by the management. Moreover Filing application with all connected document and getting all the document from various machinery, some times take time, The management should not reject the claim on that ground.

11. Considering the facts and circumstances of the case, I hold that the management to do well to give the employment to Mahabir Manjhi S/O Late Mangal Manjhi under NCWA soon after publication of the award.

This is my award

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 89.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 37/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08/01/2016 को प्राप्त हुआ था।

[सं. एल-20012/222/1993-आईआर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 89.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 37/1995) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 08-01-2016.

[No. L-20012/222/1993-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act.
1947

Ref. No. 37 of 1995

Parties : Employer in relation to the management of
Damoda Colliery, M/s. BCCL

AND

Their workmen

Present: -Sri R. K. Saran, Presiding Officer.

Appearances:

For the Employers : Shri Ganesh Prasad, Advocate

For the workman : None

State: Jharkhand.

Industry :-Coal

Dated : 14-12-2015

AWARD

By order No. L-20012/222/93-IR(CM-1) dated 20/04/1995, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

" Whether the demand of the Union made in December 91 for reinstatement w.e.f 1976 of Sh. Gando Chand Nonia by the management of Damoda Colliery of M/S B.C.C.L is justified? If so, what, benefit the workman is entitled to and from which date?"

2. After receipt of the reference, both parties are noticed. But none appears on behalf of the workman. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 90.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 34/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.01.2016 को प्राप्त हुआ था।

[सं. एल-20012/474/1995-आईआर (सी-1)]
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 90.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 34/1997) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-01-2016.

[No. L-20012/474/1995-IR(C-I)]
M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of
I. D. Act, 1947

Ref. No. 34 of 1997

Employer in relation to the management of Koyla
Bhawan, M/s. BCCL

AND

Their workmen

Present: -Sri Ranjan Kumar Saran, Presiding Officer**Appearances:**

For the Employers : Shri D. K. Verma, Advocate

For the workman : None

State: Jharkhand. Industry :-Coal

Dated : 19-10-2015

AWARD

By order No. L-20012/474/1995-IR(C-1)/IR(C-1) dated 14/01/1997, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the claim of the union that S/Sh Jitendra Kumar Sinha, Parmanand Rajak, Ghanshyam Srivastava and Md. Afjal were denied promotion and placement in Technical & Supervisory Grade “C” is legal and justified? If so, to what relief are these workmen entitled? ”

2. After receipt of the reference, both parties are noticed. Though they took steps for certain dates, subsequently did not take any interest in the case by the workman. It is presumed that the disputes between parties have been resolved in the meantime. Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 91.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 106/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.01.2016 को प्राप्त हुआ था।

[सं. एल-20012/327/1996-आई आर (सी-1)]
एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 91.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 106/1997) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-01-2016.

[No. L-20012/327/1996-IR(C-I)]
M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of
I. D. Act. 1947

Ref. No. 106 of 1997

Employer in relation to the management of Bera Colliery,
M/s. BCCL

AND

Their workmen

Present : Sri Ranjan Kumar Saran, Presiding Officer

Appearances:

For the Employers : Shri S. K. Behra, Asstt. Manager

For the Workman : None

State: Jharkhand. Industry :-Coal

Dated : 3-11-2015

AWARD

By order No. L-20012/327/1996-IR(C-1) dated 04/05/1997, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of the General Manager, Bastacolla Area No.IX of M/S BCCL, P.O-Jharia, Distt-Dhanbad in superannuating Sh. Chhotu Gorai M/Loader Prematuredly with effect from 12.07.1995 is justified ? If not, to what relief is the concerned workman entitled.

2. After receipt of the reference, both parties are noticed. Though they took steps for certain dated, Subsequently did not take any interest in the case by the workman. It is resumed that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 92.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 20/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 08.01.2016 को प्राप्त हुआ था।

[सं. एल-20012/95/2013-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 92.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 20/2014) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-01-2016.

[No. L-20012/95/2013-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of
I. D. Act, 1947

Ref. No. 20 of 2014

Employer in relation to the management of North Tisra
Colliery, M/S. BCCL

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer

Appearances:

For the Employers : Shri Ganesh Prasad, Advocate

For the Workman : None

State: Jharkhand. Industry :-Coal

Dated : 4-12-2015

AWARD

By order No. L-20012/95/2013-IR(CM-1) dated 17/02/2014, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“ Whether the action of the Management of North Tisra Colliery of M/s. BCCL in not regularizing S/Sri Alijan Mia, Juman Mia and Ram Chandra Bhuia on the post of Piece Rate Surface Trimmer is fair and justified ? To what relief the concerned workman is entitled to?”

2. After receipt of the reference, both parties are noticed. But none appears on behalf of the workman. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 93.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 83/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.01.2016 को प्राप्त हुआ था।

[सं. एल-20012/67/2014-आई आर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 93.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 83/2014) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-01-2016.

[No. L-20012/67/2013-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of
I. D. Act, 1947

Reference No. 83 of 2014

Employer in relation to the management of East Katras
Colliery, M/s. BCCL

AND

Their workman

Present :- Sri R.K.Saran, Presiding Officer

Appearances:

For the Employers :- Sri Dilip Kr. Rajak

For the Workman :- Sri Sachidanand Singh, Rep.

State : Jharkhand Industry : Coal

Dated: 23-11-2015

AWARD

By order No.-L-20012/67/2014 IR-(CM-I), dated. 5/09/2014 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“ Whether the action of the management of East Katras Colliery of M/s. BCCL in dismissing Shri Baldeo Rai from the service of the company vide order letter dated 03/06.08.2001 is fair and justified? To what relief is the concerned workman is entitled to?”

2. The case is received from the Ministry of Labour on 16.09.2014 After receipt of reference, both parties are noticed. The Sponsoring Union files their written statement on 16.01.2015. The management files their written statement -cum-rejoinder on 19.06.2015. Document of management is marked as M-1 to M-8.

3. The short point involved in the reference is that the workman has been dismissed from his services on absenteeism.

4. During Preliminary hearing. it is revealed that the case is dismissal of workman for long absence on duty. But he has already out of service for 14 years. It is felt to give another chance to the workman to serve.

5. Considering the facts and circumstances of this case, I hold that he be taken into job as a fresh employee as cat-I scale. But the workman be kept under probation for a period two year. Therefore the question of back wages does not arise at all.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 94.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 10/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.01.2016 को प्राप्त हुआ था।

[सं. एल-20012/31/2011-आई आर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 94.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 10/2012) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 8-01-2016.

[No. L-20012/31/2011-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/S 10(1) (d) (2A) of
I. D. Act, 1947

Reference No. 10 of 2014

Employers in relation to the Management of Kathara
Washery of M/s. CCL

AND

Their workmen

Present:- Sri Ranjan Kumar Saran, Presiding Officer

Appearances :

For the Employers : - Shri D.K. Verma, Advocate

For the Workman : - Shri B.B. Pandey, Advocate

State : Jharkhand

Industry :- Coal

Dated : 16-12-2015

AWARD

By Order No.L-20012/31/2011-IR (CM-I), dated. 02/02/2011, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether the Period from July 1996 to December 1997 be treated as continuous medical treatment and the workman Sh. Sitaram Mahto, Ex- Electrician of Kathara Washer of CCL is eligible for JOD allowance for the period? To what relief the workman concerned is entitled to?”

2. This Case is received from the Ministry of Labour & Employment on 06.01.2012. After receipt of reference, both parties are noticed. The Workman files their written statement on 01.11.2013. But the management after long delay files their written statement on 12.03.2015. No any witness examined from both side. But document of both side is marked. Workers document is marked as W-1 to W-8 and management's document marked as M-1 to M-7.

3. The case of the workman is that the workman is employed under CCL is working as Electric fitter Grade -I (SLU) at Kathara Washery. On 03.08.1995 the workman met an accident while on duty and received injuries in left hand for which he remained under medical treatment at various places including Bokaro General Hospital as well as C.M.C Vellore. But during the course of treatment his left fore arm below elbow was amputated. And he was on treatment from Aug. 95 to November 98.

4. It is also submitted by the workman that as per recommendation of medical Board I.O.D wages for the period from Aug. 95 to June 1996 were paid but from July 1996 to Nov. 1998 the I.O.D wages is not paid to the workman concerned. Hence dispute arose.

5. On the other hand the case of the management is that Sri Sitaram Mahato was working as Electrical Fitter at Kathara Washery and retired from the service of the company on 31.07.2003. After lapse of 19 years and after retirement of concerned workman the sponsoring Union raised the dispute.

6. Sri Sitaram Mahto Electrical Fitter Fr-I (SLU) met with an accident on 03.08.95 while on duty. And the

management provided medical treatment and paid I.O.D wages from 04.08.95 to June 1996. He was declared medically fit by the medical Board but he did not join his duty in compliance of fitness certificate dated ¾ -6.96. The management sent several letter to the workman for joining the duty. But he did not join.

7. The management also submitted that one order passed by the Hon'ble High Court of Jharkhand, Ranchi in WP(S) No. 5035 of 2001 where it was clearly mentioned that after repeated advise to Sri Mahto, he could not joined his duty, which was in fact his misconduct for which the disciplinary action could have been taking against him. But taking lenient view again letter issued him to report for duty, and he joined duty on 8/12/98. The period from July 96 to Dec. 98 was not accepted because Sri Mahto did not report duty though he was declared medically fit for doing job. Hence Sri Mahto is not entitled for I.O.D wages for the period from July to Dec. 1997.

8. The short point to be decided in this reference as to whether the workman who was said to be in continuous medical treatment from July 1996 till Dec. 1997 is eligible for I.O.D allowance for the said period or not.

9. It is not disputed that the workman while doing electrical Fitter work suffered burnt injury & under went treatment getting I.O.D allowance but during treatment there was laceration and his hand was amputated and he was given I.O.D allowance.

10. But on the other hand the management counsel submitted that he was found fit during the period July 1996 to December 1997 & was asked to perform other work in the company but he did not performed & remained absent, for which management did not give I.O.D.

11. But on scrutiny of the documents filed by the workman & the medical report, it is seen that during the period mentioned above doctor advised to continue exercise for strengthening his upper limbs. Moreover the medical of CMC Vellore has opined that the workman has 70% disability as per Ext. W-6 Series. i.e he is disabled to the extent of 70% by the accident.

12. This being the situation of the workman, he be allowed I.O.D allowance from the period July 1996 to December 1997. The workman demanded I.O.D allowance from July 96 to Nov. 98 as per written statement of the workman but the Tribunal could not go beyond the Schedule of Reference.

13. Considering the facts and circumstances of the case, I hold that the Period from July 1996 to December 1997 be treated as continuous medical treatment and the workman Sh. Sitaram Mahto, Ex- Electrician of Kathara Washer of CCL is eligible for IOD allowance from July

1996 to December 1997. The management is directed to make payment soon after the publication of the award.

This is my award

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 95.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 2, धनबाद के पंचाट (संदर्भ संख्या 75/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.01.2016 को प्राप्त हुआ था।

[सं. एल-20012/42/2003-आई आर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 95.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 75/2003) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-01-2016.

[No.L-20012/42/2003-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

PRESENT : Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D.Act., 1947

REFERENCE NO 75 OF 2003

PARTIES : The General Secretary,
Rastriya Mazdoor union,
Hirapur, Telipara, Dhanbad.

Vs.

The Project Officer,
Bararee Colliery of M/s BCCL,
PO; Bhulan Bararee, Dhanbad.

Order No.L-20012/42/2003-IR(C-I)
dt.18.08.2003.

APPEARANCES :

On behalf of the workman/Union: None

On behalf of the Management: Mr. D.K.Verma,
Ld. Advocate

State : Jharkhand

Industry: Coal

Dated, Dhanbad, the 19th Oct., 2015.

A W A R D

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/42/2003-IR(C-I) dt. 18.08.2003.

SCHEDULE

“Whether the Project Officer of Bararee Colliery, BCCL is justified in dismissing Sri Jiten Roy w.e.f. 17.08.2001 from service? If not, to what relief is the workman entitled?”

2. The workman is not turning up since 11.05.2006. Finally a notice by Regd. Post sent to the workman on 30.12.2014. Therefore it appears that the workman is not interested to contest his case. Hence a ‘No Dispute Award’ is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 96.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 250/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.01.2016 को प्राप्त हुआ था।

[सं. एल-20012/302/1993-आई आर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 96.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 250/1994) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 8-01-2016.

[No.L-20012/302/1993-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

Dated: 11-12-2015

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.1), AT DHANBAD**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act.
1947.

Reference: No. 250/1994

Employer in relation to the management of Block II Area
of M/s BCCL

AND

Their workmen

Present : Sri R. K. Saran, Presiding Officer.

Appearances :

For the Employers :- Sri D.K. Verma , Advocate

For the workman :- None

State : Jharkhand

Industry- Coal

AWARD

By order No. L-20012/302/1993-IR(C-1) dated 25/10/1994, the central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the action of Chief General manager, Block II Area of M/s BCCL, P.O. Nawagarh, Distt. Dhanbad in denying regularization alongwith payment of wages as per NCWA to Shri kamta Singh and 24 others as listed in Annexure is justified? If not, to what relief are the concerned workmen entitled?”

Sl.No.	NAME	DESIGNATION	WAGES PER DAY.	PERIOD OF WORKS
1	Sri kamta Singh	Fitter	25/-	01/01/1997 to till date
2	Sri Upendra Rawani	Fitter / Helper	19/-	07/11/1989 to till date
3	Sri Mathur Gope	Fitter	25/-	11/01/1987 to till date
4	Sri Abul Ansari	Fitter / Helper	20/-	13/10/89 to till date
5	Sri Chandan Chakraborty	Fitter	25/-	07/12/88 to till date
6	Sri Ashok singh	Fitter / Helper	21/-	06/10/88 to till date
7	Pitambar Sowai	Welder	25/-	09/07/88 to till date
8	Sri Subhash Singh Yadav	Welder/Helper	19/-	24/11/88 to till date
9	Bishu Singh	Fitter	25/-	02/02/87 to till date
10	Goddu B.P.	Fitter / Helper	20/-	11/10/88 to till date
11	Kripal Singh	Fitter / Helper	19/-	24/11/87 to till date
12	Bashishtha Narain Singh	Tyndel	19/-	07/12/88 to till date
13	Siyaran Singh yadav	Tyndel	21/-	06/11/88 to till date
14	Romkoyar Singh Yadav	Tyndel	25/-	06/01/88 to till date
15	Tejlal Mahato	Tyndel	20/-	07/10/88 to till date
16	Punit Mahato	Tyndel	20/-	24/11/88 to till date
17	Jagbandhu Sowel	Tyndel	20/-	24/11/87 to till date
18	Kuldeep Karaakar	Tyndel	22/-	07/09/88 to till date
19	Ramesh Pd. Chorasias	Munshi	25/-	06/08/88 to till date
20	Umesh singh	Tyndel	20/-	24/11/88 to till date
21	Sri Nagendra Sah	Fittter Helper	20/-	24/11/88 to till date
22	Sri Anirudh Kr. Sharma	Fitter	25/-	08/08/88 to till date
23	Sri Diplal Saw	Tyndel	21/-	06/11/88 to till date
24	Madhusudan Rawani	Tyndel	21/-	07/11/88 to till date
25	Baldeo Prasad	Tyndel	21/-	09/10/88 to till date

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently on behalf of the workman. Case remains pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 97.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओ. एन. जी. सी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, संख्या 2, नई दिल्ली के पंचाट (संदर्भ संख्या 220/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.01.2016 को प्राप्त हुआ था।

[सं. एल-30012/95/1997-आई आर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 97.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.2, New Delhi (Ref. No. 220/1998) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. ONGC and their workmen, which was received by the Central Government on 8-01-2016.

[No. L-30012/95/1997-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present:- Shri Harbansh Kumar Saxena

I D.No. 220/1998

Sh. Babu Singh,
S/o. Sh. Teg Singh,
Vill.+ P.O. Karba,
Distt, Dehradun (Uttanchal).Workman

Versus

The General Manager,
ONGC Tel Bhawan,
Dehradun(Uttanchal). PIN-248001.Management

AWARD

The Central Government in the Ministry of Labour vide letter No.L-30012/95/97 IR(C-I)dated 28.10.1998 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of ONGC in removing the casual labour Sh. Babu Singh w.e.f 09.10.1996 is legal and justified? If not, to what relief the workman is entitled”.

On 9.11.1998 reference was received in this Tribunal. Which was register as I.D No. 220/1998 and claimant union was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

The case of the workman is that the management engaged the workman in the year 1986 and he has been working regularly with the management. The workman has been working continuously under the Field Party Geological Party No. 82 as casual labour.

That the services of the workman were terminated on 09.10.1996 without payment of any retrenchment compensation.

That the workman worked 240 days every year and the work is of regular nature as the Field Party worked throughout the year independently in investigating Oil all along the year. The work is of regular nature. It cannot be said to be a casual work as it is carried all along the year.

The cases of the management is that the claim suffers from delay and laches and it has been filed with ulterior motives to gain employment with the respondent on false pretext.

That the workman has worked as a casual labour with the Geological Party No. 82 which is a Field Party of the respondent for limited number of days and at different locations. The said work was carried on seasonal basis by the Field party which carries out geological surveys.

That the job of Field Party is purely of seasonal nature. It is not a regular nature of work. The workman has never been in regular employment of the respondent. His service as casual labour were utilized by the management for the limited period of days for seasonal work and he was paid daily wages on muster roll basis.

The workman is employed by Geological Party No. 82 on casual basis for limited period of days only for the field season as casual labour. There has been no violation of any provision of the Id. Act, 1947.

The management has also denied most of the paras of the claim statement.

The workman has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. My Ld. Predecessor has not framed any issues but adjudicated the questions of determination mentioned in schedule of reference.

Workman in support of his case filed affidavit of Sh. Babu Singh on 2.2.2001. Workman tendered his affidavit and was cross examined on 6.9.2002.

Management in support of its case filed affidavit of Sh. H.M. Lal on 8.11.2002. Management tendered his affidavit and was cross examined on 19.12.2002.

My Ld. Predecessor after hearing the arguments of Ld. A/R's for the parties and perusing the pleadings and evidence of parties on record came to conclusion that the workman has not filed any proof that he has worked for 240 day in every year of his employment. The documents MW2 and MW3 prove that he has worked in 1989 , 1990 and bonus for the said has been paid to him. He has not filed any document to show that he has worked for 240 days prior to termination of his services. The workman has not filed any documentary evidence to show that he has worked for 240 days in the year 1991, 1992, 1993 ,1994 , 1995 and 1996. He is not entitled to any relief.

The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

My Ld. Predecessor passed this award on 9.4.2008.

Against aforesaid Award workman preferred writ-petition No. 1878 of 2008 in Hon'ble Delhi High Court.

Which was decided on 3.4.2014 by his Lordship of Hon'ble Delhi High Court.

Through his judgment his Lordship observed that the following finding of my Ld. Predecessor are incorrect.

“The Workman has not filed any proof that he has worked for 240 day in every year of his employment . The documents MW2 and MW3 prove that he has worked in 1989, 1990 and bonus for the said has been paid to him. He has not filed nay document to show that he has worked for 240 days prior to termination of his services. The workman has not filed any documentary evidence to show that he has worked for 240 days in the year 1991, 1992, 1993 , 1994 , 1995 & 1996 . He is not entitled to any relief.

His Lordship of Delhi High Court Consequently, allowed writ-petition and quashed the Award dated 9.4.2008 and remanded matter to the Tribunal for decision afresh in the light of the observations made in the judgement and directed parties to appear on 26.5.2014.

His Lordship also directed to Tribunal to fix the date for hearing and pass the Award afresh.

Ld. A/R's for the parties orally argued.

They have also filed written arguments.

Accordingly contentions of Ld. A/R for the workman. Workman Sh. Babu Singh has completed continuous work for more than 240 days .Hence entitled for reinstatement alongwith back wages.

He placed reliance on principles laid down in following rulings:-

1.Gaurishankar Vs. State of Rajasthan 2015 (145) FLR 671 S.C.

2.C.G. Khagram Vs. Manager 2014(140) FLR 772 , (Guj. H.C.)

3.Raj Kumar Dixit Vs. M/s Vijay Kumar Gauri Shankar , Kanpur Nagar. 2015(146)FLR 158 S.C.

4.Sudarshan Rajpoot Vs. U.P State Road Transport Corporation . 2015 (144) FLR 7 S.C.

5.Bhuvanesh Kumar Dwivedi Vs. M/s HindalCo Industries Ltd., 2014 (142) FLR 20 S.C.

6. State of U.P. V/s. Charan Singh 2015 (145) FLR 679 S.C.

7.BSNL Vs. Bhurumal 2014 (140) FLR 901 S.C.

8.BiraKishor Pradhan Vs. P.O. Labour Court, Bhuwneshwar 2015(145) FLR 746 Orissa H/C

9.DCM Sri Ram Industries Vs. P.O. Labour Court, Meerut. 2013 (138) FLR 2 Allahabad H.C.

10.State of U.P. V/s Km. Shashi Joshi 2015 LLR 158 S.C.

While Ld. A/R for the management counter contended that workman Sh. Babu Singh has not completed continuous work for 240 days in any of the year. Hence not entitled to any relief.

He placed reliance on principles laid down in following rulings:-

1. Assistant Executive Engineer , Karnataka Vs. Shivalinga reported in 2003 SCC 87.

2. Kishare Chand Sermal Vs. Orissa State Cashew Development Corporation Ltd. Dhenhamal 2006(1) SCC 253.

3. Hon'ble Supreme Court in Secretary, State of Karnataka Vs. Uma Devi (2006) 4 SCC1

4. Krishna Bhagya Jala Nigam Ltd., Vs. Mohd. Rafi, (2009) 11 SCC 522.

5. Rajasthan State Ganganagar S, Mills Ltd. Vs. State of Rajasthan and Anrs. [2004(8) SCC 161].

6. State of Rajasthan Vs. Deepa Ram 2008 (17) SCC 729.

In the light of contentions and counter contentions I perused the pleadings and evidence of parties on record including principles laid down by their Lordship of Hon'ble Supreme Court and High Courts in the cited rulings as well as relevant provisions of law such as S.25 B (2) (ii) and S.25 F of I.D. Act, 1947 and S. 114 (g) of Indian Evidence Act.

Perusal of evidence of workman shows that he could examine himself only in his oral evidence. So far documentary evidence of workman is concerned he could file certain self prepared papers. Which were not proved by him.

He also filed charts prepared on his behalf on plain papers. That too were filed by workman on 24.08.06 although he has closed his evidence on 6.9.2002. So charts to show 240 continuous working days of workman are not proved through required reliable and credible evidence.

Sh. A.K. Sharma of management brought attendance register on 27.03.06 in compliance of order dated. 27.04.2005 passed by my Ld. Predecessor but on that date neither workman nor his Ld. A/R was present hence my Ld. Predecessor fixed 14.07.2006 as last opportunity for appearance of workman and arguments with direction to Sh. A.K. Sharma that he may take back the same and produce it on next date.

Workman appeared on subsequent dates but not demanded attendance register of workman. So there is no failure on the part of Employer to produce the attendance register. Hence no adverse inference against employer/management shall be drawn as per provisions of section 114 (g) Indian Evidence Act.

Hence in want of required evidence provisions of S.25 B (2) (ii) I.D.Act cannot be applied in the instant case.

But reference of workman has been sent to this Tribunal by Labour Ministry for adjudication. Against reference available remedy was writ-petition which was not availed by management. So this fact become final that workman was casual labour. Although management alleged him as a seasonal worker. This fact is proved fact that retrenchment compensation as required by section 25-F of ID.Act has not been provided to workman Sh. Babu Singh. Hence removal of casual workman Sh. Babu Singh is not legal and justified. Question of determination No.1 mentioned in schedule of reference is liable to be decided in favour of workman and against management. But on this count workman is entitled to only retrenchment compensation as per provisions of 25-F ID. Act.

As per settled law of Hon'ble Supreme Court retrenchment compensation of Rs. 50,000/- (Fifty Thousand) is liable to be awarded to casual workman Sh. Babu Singh. Question of determination No.2 relating to relief is liable to be decided in favour of workman and against management. Which is accordingly decided.

Reference is liable to be decided in favour of workman and against management and management is liable to be directed to pay aforesaid retrenchment compensation Rs. 50000/-(Fifty Thousand) to workman Sh. Babu Singh within two months after expiry of period of limitation of available remedy against this Award. Which is accordingly decided.

Award is accordingly passed.

Dated:-09/12/2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 98.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, नं. 1, धनबाद के पंचाट (संदर्भ संख्या 04/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.01.2016 को प्राप्त हुआ था।

[सं. एल-20012/98/1999-आई आर (सी-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 98.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No.1, Dhanbad (Ref. No. 04/2000) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 8-01-2016.

[No. L-20012/98/1999-IR(C-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act. 1947.

Reference: No. 04/2000

Employer in relation to the management of Gidi
Washery of M/s. CCL

AND

Their workmen

Present: Sri R. K. Saran, Presiding Officer.

Appearances :

For the Employers :- None

For the workman :- None

State : Jharkhand

Industry- Coal

Dated- 23-11-2015

AWARD

By Order No. L-20012 /98/1999-IR(C-1) dated 18/08/1999, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 referred the following dispute for adjudication to this Tribunal:

SCHEDULE

“Whether the demand of the union/workman concerned for promotion of Sri Bhekh Lal, Operator category VI of Gidi Washery of M/s. CCL to the post of fitter –cum- Operator Grade C with effect from 06/04/1998 is justified? If so, to what relief the concerned workman is entitled?”

2. After receipt of the reference, both parties are noticed. But appearing for certain dates none appears subsequently. Cases remain pending. It is felt that the disputes between the parties have been resolved in the meantime. Hence No Dispute Award is passed. Communicate.

R. K. SARAN, Presiding Officer

नई दिल्ली, 8 जनवरी, 2016

का.आ. 99.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इण्डियन एअरलाइन्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 05/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 8.01.2016 को प्राप्त हुआ था।

[सं. एल-11012/11/1991-आई आर (विविध)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 8th January, 2016

S.O. 99.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court, Guwahati (Ref. No. 05 of 2011) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Airlines and their workmen, which was received by the Central Government on 8-01-2016.

[No. L-11012/11/1991-IR (Misc.)]

M. K. SINGH, Section Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, GUWAHATI ASSAM

Present : Sri L.C.Dey, M.A., LL.B., Presiding Officer, CGIT-cum-Labour Court, Guwahati.

In the matter of an Industrial Dispute between:

The Management of Indian Airlines, Calcutta

-Vrs-

Workman Sri Suresh Basfore.

Ref. Case No.05 of 2011

APPEARANCES :

For the Management: Mr. R.N. Mazumder, Ld. Advocate.

Mr. A.K. Sarkar, Ld. Advocate.

Mr. T.K. Borah, Ld. Advocate.

Mr. M. Mohanta, Ld. Advocate.

For the Workman: Mr. J.K. Kar, Ld. Advocate.

Mr. H.K. Dey, Ld. Advocate.

Date of Award : 30.10.2015

AWARD

1. This Reference is initiated on an Industrial Dispute existed between the employers in relation to the Management of The Management of Indian Airlines, Calcutta, and their workman Sri Suresh Basfore, which was referred to by the Ministry of Labour & Employment, Government of India, New Delhi vide their Order No. L-11012/11/91-IR(Misc); Dated: 30-03-92. The Schedule of the Reference is as under:

SCHEDULE

“Whether the action of the management of Indian Airlines Corporation and in not re-employing Shri S. Basfore after his acquittal from the Court (not finding him guilty of the charge of theft) is justified? If not, to what relief the workman is entitled to?”

2. On receipt of the order of Reference, this Reference case has been registered and notices were served upon both the parties who appeared and contested the proceeding by filing their claim statement/written statement and adducing evidence along with documents.

3. The case of the workman, in nutshell, as it appears from their claim statement, is that the workman had been working as Sweeper in Guwahati Air Port (presently known as Lok Priya Gopinath Bordoloi International Air Port) Office on daily wage basis since 1981 to 1989 as casual labourer, with sincerity and honesty to the satisfaction of the Authority. On 8.5.89 an amount of Rs.46,405/- was reported missing from the office of the Guwahati Air Port and an FIR was filed by the Authority in the Ajara Police Station, which is the nearest Police Station in connection with the occurrence of theft of the said amount. The said F.I.R. was registered being Ajara Police Station Case No.50/89. The Airport Authority suspected the workman to be involved in the said case and on 9.5.89 when the workman was proceeding for duty he came to know about this matter on being asked by the Police and Air Port official, while the workman pleaded not guilty and denied his involvement in the said theft case. But at the instance of the Air Port official the Police from Ajara Police Station arrested the workman and beaten him mercilessly in spite of his denial of the involvement in the said crime. Thereafter the workman was kept in judicial custody for 15 days and the said Ajara Police Station case No. 50/89 was registered as G.R. Case No.2262/89 u/s 380 IPC. The workman was released on bail by the learned Chief Judicial Magistrate, Guwahati on perusal of the C.D. Thereafter the workman moved several petitions before the Air Port Manager of Guwahati, Air Port with a prayer to allow him to join his job but he did not allow the workman to join. Subsequently Charge Sheet was submitted against the workman u/s 380 IPC in G.R. Case No.2262/89. After his release from the jail custody, the workman came to know that the missing amount of Rs.46,405/- was recovered intact from the Godrej Almirah of the office which was at the disposal of the Cashier of the Air Port office and the said amount was seized by the police. Thereafter the G.R. case No. 2262/89 (Ajara P.S. Case No.50/89) u/s 380 IPC came for hearing before the learned Chief Judicial Magistrate, Guwahati on 9.11.90, and the learned CJM, after hearing the Public Prosecutor and the workman's Advocate passed an order discharging the workman from the case directing the Investigating Officer to return the seized articles. Then the workman after obtaining the certified copy of the said order dated 9.11.90 passed by the learned C.J.M, Guwahati applied to the APM with request to allow him to join his job in view of the said order dated 9.11.90, but the prayer of the workman was not considered by the Airport and ultimately the workman moved the Labour Commissioner for considering his case.

Further case of the workman is that he being a poor Sweeper, belongs to Scheduled Caste community, has been put to miseries and sufferings by the Airport Authority officials for no fault of him although the officers at whose disposal the huge amount was kept and later reported missing have gone unpunished. Hence, the workman prayed for passing necessary order for reinstating him in his job, for payment of due wages from April, 1989 till the date of reinstatement and compensation due to him under the provision of law.

The workman submitted additional claim statement, denying the contents of paragraphs 11, 13 & 14 of the W.S. filed by the Management, stated inter-alia that he was appointed as casual employee as Sweeper and he worked against the said post from January, 1981 to 1989 without break on monthly wages of Rs.1200/- @ Rs.40/- per day from 1981 to 1982 and @ Rs.1500/- per month @ Rs.60/- per day from 1983 to 1989 and as such, the workman completed 240 days continuous service in a period of 12 months. The workman mentioned that the statements made in para-13 and para-14 of the written statements made by the management are not true but imaginary, concocted, managed. It is again pointed out by the workman that original record would be called for by the workman in due course. Even the Assistant Labour Commissioner who examined the original file had also kept a copy of the original file which can be also called for at the time of hearing as such, the workman prayed to reject the W.S. as well as the additional W.S. submitted by the Management.

4. The Management of the then Indian Airlines Corporations contested the proceeding filing the written statement, stating inter-alia, that the reference have not been made u/s 10 of the Industrial Dispute Act, 1947 in respect of an individual workman, which is not maintainable in law, since the dispute has not been espoused and/or sponsored by a Union or by appreciable number of workmen and as such, the workman has not come within the purview of Section 2(k) of the Industrial Dispute Act, 1947. It is pleaded by the Management that the casual labourers get work only in absence of temporary or otherwise of regular employees, and do not have any guaranteed right of employment and hence, the reference for re-employing a casual on the face of it is bad in law. The Indian Airlines is a Corporation established under Section 3 of the Air Corporations Act, 1953. Under Section 45(1) of the said Act, it is provided amongst others that subject to the provision of sub-Section 3 of the said Section the Corporation may by Notification in the Official Gazette make Regulations not inconsistent with the Act or Rules made therein for administration of the affairs of the Corporation and carrying out its function; and Clause (b) of Sub-Section 2 of the said Section provides that the Corporation may make Regulations relating to the terms and conditions

of the services of the Officers and other employees of the Corporation other than the Managing Director and the officers. The Management in exercise of power conferred by Clause (b) of Sub Section 2 of Section 45 of the aforesaid Act, with the approval of the Central Government made three services Regulations namely, (i) Indian Airlines (Flying Crew) Service Regulation, (ii) Indian Airlines (Aircraft Engineering Department) Service Regulation and (iii) Indian Airlines (Employees other than Flying Crew and those in the Aircraft Engineering Department) Service Regulation. Rule 9 of the Recruitment and Promotion Rules about the mode of direct recruitment in the Corporation runs as under :-

“9. All posts available for direct recruitment shall be given the widest possible publicity and, in particular, the following steps shall be taken:

a). An advertisement incorporating the minimum qualifications and experience necessary for all posts, except those in Grade-I and II, shall be inserted in such of the leading newspapers as may appear necessary.

b). All application received at Headquarters and Regions shall be registered in the Administrative & Personnel Branch and record of the same maintained by a classification into occupational groups.

c). Local Employment Exchange may be approached in case of recruitment to Grades I & II and may be approached in other cases also with a view to suggesting suitable candidate.

d). A public notice indicating the existence of vacancies shall be put up on the Notice Board at Local Office of the I. A. and the workshops.

e). Those already in the employment of the Corporation shall be entitled to apply for any of the posts subjects to eligibility.

Provided that in emergent cases, the procedure outlines in (a) above may be dispenses with in respect of Regions with the permission or the Regional Director and in other cases with that of the Chairman/General Manager.

Provided that in selecting the candidates, all things being equal, existing employees of the Corporation from the grades or inter linked grades immediately below shall be given the first preference and “Retrenched” or ex-employees of the former constituent Airlines shall be given second preference provided they are suitable in all respects.”

The Management submitted that as per the Standing Orders for the factory workers of the Corporation defined the “Badali and “Casual workman”, (i) Badali or substitute means a workman who is appointed to the post of permanent workmen or a probationer who is temporarily absent.

(ii) Casual workman means a workman who is employed for any work of an occasional or casual nature. The Corporation sometime due to emergency has to resort to engagement of casual labourer for the category of Loader or Sweeper etc. at Guwahati Airport and since the Airport is a protected area, the Corporation has to recommend for Security Entry Pass in respect of those Casuals for the entry into the National Airport Authority. If at all, the workman was engaged, such engagement was purely casual and intermittent in nature, in any event the alleged workman has not completed 240 days of continuous service in a period of 12 months, preceding to any given date, so as to reap benefit of the Provisions of Section 25F of the Industrial Dispute Act, 1947. The Management further mentioned that there was conciliation by the Assistant Labour Commissioner (C), Guwahati and during the discussion held on 13th January, 1986, the Assistant Labour Commissioner requested the Corporation to adjudge the suitability of the 15 casuals along with the candidates forwarded through the Employment Exchange, and the name of the workman was also figured amongst the 15 persons who were agreed to be considered by the representative of the Management subject to their fulfilling the requirement of suitability for interview/selection etc. However, the employers crave leave to refer the said minutes of the meeting held on 13th January, 1986. Accordingly interview was held on 20th February, 1986 for filling up of the vacancy for the post of Loader from the candidates sponsored by the local Employment Exchange and also recommended by the Assistant Labour Commissioner (central), Guwahati by a duly constituted Board, but the workman could not come out successfully in the interview. Thereafter fresh names were sponsored by the Employment Exchange, Guwahati on the request of the employees and those who were found eligible were interviewed by the duly constituted Board and a fresh panel was drawn on the basis thereof for the post of Loader at Guwahati and appointments were made therefrom but the name of the workman was not sponsored by the Employment Exchange.

The management denied the contention of the workman that the workman was working as a Sweeper in the Gauhati Airport Office on daily wage basis since 1981-89 as casual labourer. The Management reiterated that if at all the alleged workman was engaged, such engagement was purely casual and intermittent in nature and the alleged workman did not have guaranteed right of employment by reason of such casual engagement. The management also denied the allegations raised in the claim statement, more particularly that the workman is entitled to be reinstated or that he is entitled to any wages from April, 1989 or for any period or to any compensation under the provision of law. The Management further pleaded, filing addl. W.S., denying the allegations raised in the additional W.S. submitted by the workman that the

workman was engaged as casual from January, 1981 to 1989 without any break or that he was paid monthly salary at the rate of Rs.1200/- or at the rate of Rs.40/- per day to or Rs.1500/- per month or Rs.50 per day from 1983 to 1989; and that the workman completed even 240 days of continuous service in a period of 12 months. The management also denied the statement of the workman that Interview Board told him that since the workman had already been working as Sweeper there was no necessity of taking interview further. The management also denied, in particular, the contention of the workman made in the Addl. Claim statement that the statement of the employers are not based on actual fact or that have made in suppression of official records.

5. With a view to establish their respective cases both the workman and the management examined 3 WWs & 1 MW respectively.

After closing hearing of both the sides I have heard arguments from both the parties, at length.

According to the workman Sri Suresh Basfore (W.W.1) he was working as Sweeper in Gauhati Airport Office of the Management on daily wage basis since 1981 with sincerity and honesty to the satisfaction of the management and on 5.8.89 the management lodged an FIR before the O/C, Ajara Police Station alleging missing of Rs.46,405/- which was registered as Ajara P.S. Case No. 50/89, and in this connection the workman was arrested on 19.5.89 and was remanded to judicial custody. The said Ajara Police Station case no. 50/89 was registered as G.R. Case No.2262/89 by the learned Chief Judicial Magistrate, Kamrup, Guwahati who, thereafter, upon perusal of the case diary was released the workman on bail in the aforesaid case. Subsequently the learned CJM, Guwahati, upon perusal of the C.D, was released the accused on bail. On being released on bail, the workman made several petitions before the Assistant Airport Manager, Guwahati praying for allowing him to join his job as Sweeper, but it was not considered. Thereafter the workman moved before the Assistant Labour Commissioner (C), Guwahati for redressal of the grievance, and ultimately the dispute was referred by appropriate government for adjudication.

The workman further mentioned that he had worked in the post of Sweeper under the management from January, 1981 to 9.5.89 without any break and without any long leave and the monthly salary was paid to him at the rate of Rs.1200 per month (@ Rs.40/- per day) from 1981 to 1982 and subsequently his monthly salary was increased to 1500 (@ Rs.60/- per day). He also mentioned that throughout the aforesaid period from 1981 to 1989 he had continuously worked for 240 days of every 12 months. He also stated that during the period of his service he appeared in an interview before the management for consideration of his appointment against

the available vacancies but his case was not considered by the management.

At his instance, the workman (WW.1) was re-examined, while he stated that the learned C.J.M, Kamrup after scrutiny of the record along with the Final Report submitted by the Investigating Officer discharged him on 09.11.1990 as mentioned above, and in this connection he had obtained the certified copy of the said order dated 9.11.90 passed by the learned C.J.M, Kamrup in G.R. Case No.2262/89 (Azara P.S. Case No. 50/89) u/s 380 IPC. Accordingly he had handed over the said certified copy to his then counsel Mr. R.K.Das who has shifted from Guwahati for which he is not in a position to produce the certified copy of the said order. Thereafter he approached the learned C.J.M, Kamrup for furnishing the certified copy of the aforesaid order dated 9.11.90 passed in G.R. Case No.2262/89 and in spite of his repeated persuasion and attempt he could not obtain the certified copy of the said order. Thereafter the record Keeper of the Office of the learned C.J.M, Kamrup submitted a report stating that the Case Record of G.R. Case No.2262/89 was duly entered in their record and it has been mentioned as discharged on 9.11.90, V-Class, A-file docketed under SL. No. 107 and entry dated 27.12.1991 and the discharge order passed by the learned C.J.M, on 9.11.1990. It is also stated by the W.W.1 that in the report of the Record Keeper of the Office of the learned C.J.M, Kamrup it is mentioned that the case record of the above mentioned case G.R. Case No.2262/89 has been destroyed as per destruction list on 29.12.1993 and the said report of the Record Keeper has been duly authenticated with endorsement "place the report before the appropriate Court" by the learned C.J.M, Kamrup on 9.4.2015. The workman has proved the report of the Record Keeper of the office of the C.J.M, Kamrup vide Exhibit-1 and the photo copy of the certified copy of the order dated 9.11.90 passed by the learned C.J.M, Kamrup in G.R. Case No.2262/89 (Azara P.S. Case No.50/89) u/s 380 I.P.C.

During his cross-examination the workman mentioned that on 1.1.1981 he joined as Sweeper under Indian Airlines Corporation at Guwahati Airport as casual employee, and that the wages were paid to him by the management fortnightly by obtaining signatures on the vouchers. He again mentioned that in the year 1985 the management held an interview calling him including 4/5 other casual workers for regularisation of their service but he was not selected for regularisation. However, he was allowed to continue the work, and during his interview all his documents were examined by the Board.

The W.W.2, Sri Lakshmi Basfore stated that he was employed by the management of Indian Airlines, Lilabari initially on casual basis and thereafter as permanent worker as Engineering Helper with effect from 1985, and he was posted at Borjhar Airport of the Indian Airlines

in December, 1986, wherefrom he retired on 31.1.2011. The W.W.2 also mentioned that the workman Suresh Basfore is known to him since his joining time at Borjhar Airport of Indian Airlines. He added that the workman was found to be very sobar in his behaviour and was very sincere in his work and his good personality brought the W.W.2 closure to the workman Sri Basfore who was working as casual worker under the management at daily wage rate. He again stated that in the year 1989, he heard that the workman was implicated in a theft case and was arrested by police, but subsequently the workman was relieved of the charges by the Court.

In course of his cross-examination the W.W.2 mentioned that the workman was working under the Commercial Department as Safaiwala and in the year 1989 an occurrence of theft took place in Borjhar Airport which he heard on the following day of occurrence. He further mentioned that so far he knows that the workman was discharged from the service in connection with the aforesaid theft case.

The W.W.3, Sri Motilal Shah, stated that he was employed at Borjhar Airport of the Indian Airlines as Catering Helper on 16.6.80 as a regular employee of the Indian Airlines and he was retired from the service on 31.12.05 on superannuation. He again stated that he personally knew the workman Suresh Basfore since 1981 after his engagement at Borjhar Office; and that the workman was employed as Sweeper working in the Airlines Office at Borjhar. He also mentioned that the workman was very sobar well behaved and nothing was noticed or heard against the workman during his service period in the Airlines Office; and in fact, his good personality, sincerity and amiable behaviour brought him closure to the workman. Thereafter in the year 1989 he heard that the workman was implicated in a theft case of Airlines money and was arrested by police. Subsequently, the workman was released by the Court as charges were not proved against him.

During his cross-examination the workman witness No.3 stated that he had been working in the Catering Section of Indian Airlines Corporation since 1980 while the workman Suresh Basfore joined as Sweeper under Indian Airlines in 1981 and since then he knew the workman. He also added that the workman joined as casual worker but how he was discharged he could not know. However, after a few years of service of the workman, heard that the workman was arrested by the police and some occurrence of theft occurred in the cash section of Indian Airlines at Borjhar Airport and the stolen money was recovered and the workman was also released by police finding no allegation against the workman.

6. The Management, on the other hand, examined their witness namely Nitish Chandra Barooah, the Station

Manager of Air India Ltd., Guwahati as MW.1 & Sri Bhabesh Chandara Das, the Dy. Manager (Sales & Marketing) Air India (Ltd.) as MW.2.

According to M.W.1, the management sometime due to emergency has to resort to engagement of casual labourer of the category of Loader/Sweeper etc. at Guwahati Airport and as the Airport is a protected area the Corporation has to recommend for security Entry Pass in respect of those casual or being issued by the National Airport Authority; and such engagement was purely casual and intermittent in nature, in any event, the workman has not completed 240 days of continuous service in a period of 12 months preceding to any given date so as to reap the benefits of the provision of Section 25(f) of the Industrial Dispute Act. The MW.1 further stated that there was a conciliation held by the Assistant Labour Commissioner (C), Guwahati and during the discussion held on 13.1.86 the Assistant Labour Commissioner (c), requested the management to adjudge the suitability of the 15 casuals along with the candidates forwarded by the Employment Exchange, and the name of the workman was also figured amongst the 15 persons, who were agreed to be considered by the management subject to the fulfilling of their requirement and/or suitability for interview and/or selection etc. The management hold an interview on 20.2.1986 for filling up the vacancy for the post of Loader from the candidates sponsored by the local Employment Exchange as well as the candidates recommended by the Assistant Labour Commissioner(C), Guwahati. But the workman could not come out successfully in the interview. He also added that after sometime fresh names were sponsored by the Employment Exchange, Guwahati on the request of the employers company and those who were eligible were interviewed by the duly constituted interview Board and a fresh panel was drawn on the basis thereof for the post of Loader at Guwahati and appointments were also made therefrom. At that time the name of the workman concerned was not sponsored by the Employment Exchange. The MW.1 pointed out that there is no record to suggest as purportedly claimed by the workman concerned in his evidence on Affidavit to the effect that, he had worked from January, 1981 to 9th May, 1989 under the management. He also added that if at all the workman concerned was engaged, such engagement was purely casual and intermittent in nature and the said workman did not have guaranteed right of employment by reason of such casual engagement.

The MW.2 Sri Bhabesh Chandra Das, Dy. Manager (Sales and Marketing), Air India, Guwahati stated that he has been working in Air India, Guwahati since 18.7.2015 and he is acquainted with the facts and circumstances of the case. He was working at Guwahati Air Port and City Office of Air India since 1990 to 2010. He mentioned that the casual labourers are engaged by their Organisation

in the event of vacant post of permanent labourers and the labourers who are on leave or sick, through the Workers' Union. Minimum qualification for appointment to the post of casual labourer was Class-VIII at the relevant time and after appointment of the casual workers the Air Port Authority issued Airport Entry Pass to them after security clearance and other formalities. The wages of the casual workers was paid day to day. He again stated that he knows the workman Suresh Basfore who had been working in Guwahati Airport under Air India as casual worker since 1986 but he could not say up to what date he continued. He again mentioned that the Casual workers were engaged casually not continuously. In 1986 the workman was called for appearing before the Selection Board duly constituted by the Manager for selection of the casual workers including others, and in the selection test the workman could not come out successfully for which he was not engaged. The MW.2 added that in the year 1989 an incident of theft of around 46,000/- took place in the cash room while the management lodged FIR before Azara Police Station. Accordingly Police investigated into the matter and suspected the workman who was arrested by the Police. After investigation Azara Police submitted charge sheet against the workman Suresh Basfore u/s 380 IPC and the same was submitted before the Court of C.J.M, Kamrup, Guwahati. The Hon'ble C.J.M on perusal of the charge sheet discharged the workman Suresh Basfore and the stolen amount was also subsequently recovered from the locker of the cash room of the Airport. He added that the amount was subsequently seized by Police and the learned C.J.M, released the said amount in their favour. He also mentioned that after his discharge the workman Suresh Basfore approached the Management for his reengagement but the management did not agree to it. Workman was refused reengagement since he could not qualify the selection and not due to the case lodged against the workman.

In course of his cross-examination the MW.2 stated that in the year 1990 after his joining the Guwahati Airport he found the workman Suresh Basfore working as Casual worker. As per the Standing Order of the Management the casual employees are included as employees of Air India and Clause-14 of the Standing Order regarding payment of wages the mode of payment of wages i.e. the wages of casual employees for the previous week would be paid on the following Tuesday. He also added that the attendance record as well as the wage payment register in respect of the casual workers was maintained but they have not produced any document regarding attendance and payment of wages in respect of the workman, for which he could not say exact number of days of work done by the workman in a particular year. The management witness No.2 again said that the workman being a casual labourer there is no job relation

between the Sweeper & Cashier who is the In-Charge of cash room and the occurrence of theft took place in the cash room. He further stated that the interview was held in 1986 for the post of Loader. The witness concerned has also admitted that the workman belong to SC category and the Loader is non-technical post and as per Rule-13 of the Recruitment and Promotion Rules of the Management there is instruction that the Board shall pay due attention to the Circular issued by the Home Ministry from time to time in the matter of safeguard of adequate representation of members of SC, ST non-technical post. He added that the aforesaid Rule 13 was followed at the time of selection procedure of the workman including others but no waiting list of the candidates was prepared for the year 1986 by the Selection Board. He also stated that he was not aware if any other interview was held after 1986 for the same post. The MW.2 denied the suggestion tendered by the workman that the workman was not reengaged with intent to deprive him from getting the job; and that with a view to implicate the workman falsely the criminal case was lodged. He also denied the suggestion put forward by the management that the workman is entitled to be reengaged.

7. During argument Mr. R.N.Mazumder, learned Advocate for the Management submitted that the present reference made u/s 10 of the I.D.Act, 1947 is not maintainable, in as much as the claim for reinstatement by workman without being espoused or sponsored by a Union or by a appreciable Body of workman can not come within the purview of Section 2(k) of I.D.Act; and that the workman could not complete 240 days of continuous service in any given year so as to come within the purview of Section 25 (f) of the I.D.Act with a view to derive the benefit thereof in the event of termination. Mr. Mazumder also pointed out that the workman along with other casual labourers were allowed to appear before the interview for filling up the vacancy for the post of Loader held in February, 1986 for which candidates sponsored by the Employment Exchange as well as the candidates recommended by the Assistant Labour Commissioner @, Guwahati were considered by the duly constituted Board, but the workman did not come out successfully in the said interview as such, the workman has no legal right to claim regularization and/or reinstatement in the service of the Management Company. In support of his contention Mr. Mazumder relied upon the case of Secy... State of Karnataka & Ors —vrs— Umadevi & Ors published in (2006) 4 SCC 1 wherein it was held —" though regular appointment as per the constitutional scheme for public employment must be the rule, there is nothing in the constitutional scheme which prohibits the Union or State Governments or their instrumentalities from engaging persons temporarily or on daily wages in spite of the constitutional scheme governing public employment, without following the required procedure,

to meet the needs of the situation—However, consistent with the scheme for public employment, unless the appointment is in terms of the relevant rules and after a proper competition amongst qualified persons, the same would not confer any right on the appointee—Therefore, a contractual appointment comes to an end at the end of the contract, an appointment on daily wages or casual basis comes to an end when it is discontinued, and a temporary appointment comes to an end on the expiry of its term.”

After enactment of Amendment Act 24 of 2010 incorporating the Section 2A of I.D.Act it has been provided that the dismissal etc. of an individual workman to be deemed to be an industrial dispute, and the individual workman may raise the dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute, notwithstanding anything contained in Section 10 of I.D. Act, Section 2A of the aforesaid Act runs:-

“2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.—Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

Notwithstanding anything contained in Section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.”

The workman espoused his causes before the Labour Commissioner (C) Guwahati who on failure of conciliation referred the F.O.C. to the Ministry. Accordingly, the dispute was referred by the Ministry u/s 10 (1)(d) (2A) of I.D.Act, in view of the provision of Section. 2A of I.D.Act as mentioned above there is no illegality in espousing the dispute by the workman himself alone as well as referring the dispute by the Ministry & hence the dispute is maintainable. Therefore I find no force in this argument put forward by the learned Advocate for the Management.

8. Mr. J.K.KAR, Learned Advocate for the workman submitted that the workman was engaged as Casual worker against the Post of Loader/Sweeper who discharged his duties since 1.1.81 to 9.5.1989 till the date of his arrest by the Azara Police Station in connection with Azara P.S. Case No.50/89 (G.R. Case No.2262/89) without any break or any long leave and that after his discharge at the stage of framing the charge against him by the learned C.J.M, Kamrup the workman approached the management on repeated occasions to join his service but the management without issuing any notice of termination nor any show cause, with intent to victimize the workman following the tactics of unfair labour practice, refused the workman to join his work and the said fact has been categorically established by the workman as well as admitted in the evidence of the management witness No.2. Mr. Kar, learned Advocate for the workman added that the workman has been able to prove on oath standing on the dock of this Court that he worked continuously for 240 days in each preceding 12 months till his arrest by Police and this testimony has been supported by the W.W.2 & 3. He also mentioned that the management confirmed that they maintained the Attendance Record as well as the payment of wage record in respect of the workmen but they did not produce the same; and the workman has no access to the said record regarding his Attendance and payment of wages & as such he is not in a position to produce the same. Thus, the onus is on the part of the management to disprove the contention of the workman adducing evidence along with the record which they did not. In this connection Mr. Kar relied upon the Civil Appeal No. 229 of 2010 (arising out of S.L.P. (C) No. 14078 of 2009) 2010 (1) SCT 675, wherein it was held

“(13) We are conscious of the fact that an appointment on public post cannot be made in contravention of recruitment rules and constitutional scheme of employment. However, in view of the materials placed before the Labour Court and in this Court, we are satisfied that the said principle would not apply in the case on hand. As rightly pointed out, the appellant has not prayed for regularization but only for reinstatement with continuity of service for which he is legally entitled to. It is to be noted in the case of termination of casual employee what is required to be seen is whether a workman has completed 240 days in the preceding 12 months or not. If sufficient materials are shown that workman has completed 240 days then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25 F. The High Court failed to appreciate that that in the present case appellant has completed 240 days in the preceding 12 months and no notice or compensation in lieu of it was given to him, in such circumstances his termination was illegal.”

Mr. Kar again referred the case of Sachiv, Krishi Upaj Mandi Samiti –vs—Aditya S/o Baijnath Shukla reported in (2003) III LJ 555 MP wherein it was observed that if the termination of an employee is based on no enquiry, no charge and not by way of punishment, then it becomes a case of illegal retrenchment; if an employee has worked for more than 240 days in one calendar year then he is entitled to have the protection of Labour Laws provided the employer is an Industry subjected to Labour Laws.

Learned Advocate for the workman further cited the case of R.M. Yellatty –vs—Assistant Executive Engineer published in {(2006)1 SCC 106} wherein it was decided as “However, applying general principles and on reading the aforesaid judgments, we find that this Court, has repeatedly taken the view that the burden of proof is on the claimant to show that he had worked for 240 days in a given year. This burden is discharged only upon the workman stepping up in the witness box. This burden is discharged upon the workman adducing cogent evidence, both oral and documentary. In cases of termination of services of daily-waged earners, there will be no letter of appointment of termination. There will also be no receipt of proof of payment. Thus in most cases, the workman (the claimant) can only call upon the employer to produce before the Court the nominal muster roll for the given period, the letter of appointment of termination, if any, the wage register, the attendance register, etc. Drawing of adverse inference ultimately would depend thereafter on the facts of each case.”

9. On scrutiny of the evidence adduced by both the sides as discussed above it is found admitted that the workman Suresh Basfore was engaged by the management of Air India as casual labourer in the category of Loader/Sweeper etc at Guwahati Lokpriya Gopinath Bordoloi Airport (the then Gauhati Airport); and as per the Standing Order of the management the casual employees are included as employee of the Air India. The management witness No.2 categorically admitted that as per Clause-14 of the Standing Order regarding payment of wages –mode of payment of wages i.e. the wages of casual employees for the previous week would be paid on the following Tuesday and that the attendance record as well as the wage payment register in respect of the casual workers was maintained but the management did not produce any document regarding attendance and payment of wages in respect of the workman for which the M.W.2 could not say exact number of days work done by the workman for a particular year. The workman in his evidence categorically mentioned that he had been working as Sweeper in the then Gauhati Airport Office of the management since 1981 and on 8.5.1989 the management lodged an FIR before the O/C, Azara Police Station regarding missing of Rs.46,405/-

and which was registered as Azara Police Case No. 50/89. In connection with the said Azara P.S. Case No. 50/89 it was registered as G.R. Case No.2262/89 by the learned C.J.M. Kamrup, Guwhati, the workman was arrested on 9.5.1989. The workman also categorically mentioned that he had worked against the post of Sweeper under the management from January, 1981 to 9.5.89 i.e. till the date of his arrest by Azara Police Station without any break or without any leave; and the monthly wage was paid to him @ Rs.1200/- per month i.e. at the rate of Rs.40/- per day from 1981 to 1982; subsequently his monthly wage was increased to Rs.1500/- i.e. @ Rs.60/- per day. He further mentioned that in the aforesaid period of his duty from 1981 to 1989 he had continuously worked for 240 days in every 12 months.

The said testimony of the workman has neither been rebutted by the management side nor the management could produce any document regarding the attendance and payment of wages in respect of the workman although the said documents were called for. The management in their evidence as well as in course of argument categorically mentioned that the workman never worked for 240 days continuously in 12 months. Thus the management has failed to discharge their burden of proving the fact that the workman has not completed 240 days in a year adducing evidence both orally and documentary. In this connection I am inclined to rely upon the case of Ramesh Kumar –vrs— State of Haryana published in (2010) 2 SCC 543 wherein it was held that in case of termination of casual employee what is required to be seen is whether he has completed 240 days of service in preceding 12 months or not; if he has, then his service cannot be terminated without giving notice or compensation in lieu of it in terms of Section 25-F. In Director, Fisheries Terminal Division –vs— Bhikubhai Meghajibhai Chavda, (AIR 2010 SC1236). The Hon’ble Supreme Court has categorically observed— “So it is obvious, as this court pointed out in the above case that he would have difficulty in having access to all the official documents, muster rolls etc. In connection with his service. He has come forward and deposed, so in our opinion the burden of proof shifts to the employer/ appellants to prove that he did not complete 240 days of service in the requisite period to constitute continuous service. It is the contention of the appellant that the services of the respondent were terminated in 1988. The witness produced by the appellant stated that the respondent stopped coming to work from February, 1988. The documentary evidence produced by the appellant is contradictory to this fact as it shows that the respondent was working during February, 1989 also. It has also been observed by the High Court that the muster roll for 1986-87 was not completely produced. The appellants have inexplicably failed to produce the complete records and muster rolls from 1985 to 1991, in spite of the direction issued by the Labour Court to produce the same. In fact

there has been practically no challenge to the deposition of the respondent during cross-examination”).

Further the Apex Court in *Municipal Corporation, Faridabad—vs—Siri Niwas* reported in (2004) 8 SCC 195, observed that “A Court of law even in a case where provisions of the Indian Evidence Act apply, may presume or may not presume that if a party despite possession of the best evidence had not produced the same, it would have gone against this contentions. The matter, however, would be different where despite direction by a court the evidence is withheld.”

10. The evidence on record shows that the workman had been working till the date of his arrest by police on 9.5.89 with effect from 1.1.1981 on the date on suspicion in connection with the theft of an amount of Rs.46,405/- from the cash counter, and subsequently the said amount was recovered from the locker of the cash counter of the management and the same was seized by police and subsequently the said amount was placed at the zimma of the management. Thereafter concerning Police Station submitted charge sheet against the workman which was registered in connection with G.R., Case No. 2262/89 arising out of Azara P.S. Case No.50/89 u/s 380 IPC and the learned C.J.M., Kamrup upon hearing both the sides vide his order dated 9.11.90 discharged the workman finding no materials to frame any charge u/s 380 IPC against the accused i.e. the present workman. After his discharge from the judicial custody the workman approached the management on several occasions for his reengagement but no action taken by the Management who did neither issue any letter of termination nor pay the notice pay with retrenchment compensation u/s 25-F of I.D.Act. It is also revealed in the evidence on record that in the year 1986 the management recruited the Grade-IV staff including the post of Loader/Sweeper etc. calling for an interview of the candidates recommended by the Local Employment Exchange as well as the candidates whose names have been sponsored by the ALC (C), Guwahati wherein the workman was one of the candidates, but he could not come out successfully. Yet the workman was allowed to continue to perform his duty as casual worker till the date of his arrest i.e. on 9.5.89.

11. From the above discussion it is clear that the present dispute raised by the workman is maintainable & as such, the arguments put forward by Mr. Mazumder, learned Advocate for the Management is found not maintainable. In this connection I am inclined to rely upon the Case of *Maharashtra State Road Transport Corporation & Another—vrs—Casteribe Rajya Parivahan Karmachari Sanghatana* reported in (2009) 8 SCC 556, wherein it was decided “Industrial and Labour Courts enjoy wide powers under S.30(1)(b). This includes power to accord permanency to employees affected by unfair labour practice. This Power is not affected by *Umadevi*(3) case

for two reasons, first this Act was not at all considered by Constitution Bench, and second *Umadevi*(3) case limits scope of powers of Supreme Court under Art. 32 and High Courts under Art. 226 to issue directions for regularization in matters of public employment, but power to take affirmative action under S.30(1) (b) remains intact.”

12. It is also found well established that the workman has rendered continuous service to the management as casual labourer for 240 days in the preceding 12 months w.e.f. 1.1.1981 to 9.5.1989, the workman was refused to join his duties/retrenched by the Management arbitrarily. As such the workman is entitled to protection under I.D. Act, 1947.

Mr. Mazumder, learned Advocate for the management raised another argument that in pursuance to the direction given by the Prime Minister of India in 1992 to effect 10% cut in the staff strength across the board, the Ministry of Civil Aviation has been consistently reviewing the status, and the 5th Pay Commission had also stated that 30% posts have to be abolished in the next 10 years or 3% annually. Mr. Mazumder also added that since erstwhile Indian Airlines Ltd. was suffering loss from 1989-90, the Government of India constituted a Committee of Experts in February, 1995 to make a comprehensive examination of the reasons for losses and to develop strategies for turning around the management in the context of competitive market environment, and the Committee headed by Mr. Kelkar, amongst others suggested a policy that employee to aircraft ratio has to be reduced progressively by 5 % in the next 5 years. As such, due to poor financial condition of the company it should not be saddled with additional burden by directing regularization and/or reinstatement of the concerned workman which may render futile the whole process of revival of the Company. In this regard Mr. Mazumder relied upon the case of *Secretary, State of Karnataka & Ors—vs—Umadevi & Ors* reported in (2006) 4 SCC 1. Mr. Mazumder, again, relied upon the case of *Post Master General, Kolkata & Ors.—vrs—Tutu Das (Dutta)* reported in (2007) 5 SCC 317 wherein it was held:-

“16. The short order which was the subject-matter of decision of this Court in *Debika Guha* also stood overruled in *Umadevi*. We may at this stage also notice that the concept of 240 days to be the cut-off mark for the purpose of regularization of services came up for consideration of this Court in *Madhyamik Shiksha Parishad—v—Anil Kumar Mishra* wherein it was clearly laid down that the completion of 240 days of continuous service in a year would be attracted only in a case where retrenchment has been effected without complying with the provisions contained in Section 25-F of the Industrial Disputes Act, but would not be relevant for regularization of service.”

13. The workman in his evidence prayed for directing the management to reinstate him in his job of Sweeper and to pay the back-wage with effect from April, 1989 till the date of his re-instatement. Since it is not a case of regularization but reinstatement only, I find no reason to entertain the arguments raised by the learned Advocate for the management. Also the decision of the Hon'ble Supreme Court in the aforementioned cases appears to be not relevant.

14. From the above it is revealed that the workman had been working as casual labourer in the category of Loader/Sweeper since 1981 to 9.5.89 i.e. till the date of his arrest and the learned C.J.M., Kamrup, rightly discharged the workman finding no materials against him. Further the workman being a Sweeper/Loader has no access to the cash. Presumably the Cashier/In-charge of cash is the custodian of the cash as well as the locker of the cash and as the alleged stolen amount was recovered from the locker of the cash after the arrest of the accused. So there was no enquiry held against the workman in connection with any charge by the management nor the procedure for dis-engagement/retranchment of the workman was followed by the management. It is also found in the evidence of the management witness No.2 that the workman was refused reengagement since he could not qualify in the selection test held in 1986 and not due to the case lodged against the workman, while it is found established that the workman was allowed to work since 1986 till the date of his arrest and after his release he was not allowed to join. Thus it is crystal clear that the workman was disengaged by the Management without complying the provision of law and procedure and such, an action of the management in not reemploying/reinstating the workman is arbitrary, against the principle of law and unjustified as well as in violation of the Rules & procedure established by the Management which is a clear unfair labour practice.

15. Mr. Mazumder, learned Advocate for the Management pointed out that this Court in Ref. Case No.3 of 2011 passed an Award rejecting the claim of the workman namely, Jibeswar Mondal, Jagannath Mahato, Sunil Singh & Bashistha Sahani who espoused their causes which are same as these in the present reference. On scrutiny of the copy of the award produced by the Management it appears that the facts & circumstances of the present reference & those revealed in the Ref. Case No.3 of 2011 are not the same. More particularly the workmen in that Ref. Case No.3 of 2011 had failed to prove that they worked 240 days in a year. Therefore, it is clear that this plea taken by the learned Advocate for the Management cannot be accepted.

Another argument raised by Mr. Mazumder, learned Advocate for the management that in view of the report of the Kalkar Committee constituted in pursuance of the

Ministry of Civil Aviation on the basis of the direction given by the Prime Minister in 1992 to effect 10% cut in the staff strength across the board, and the recommendation of the 5th Pay Commission that 30% of posts have to be abolished in the next 10 years or 3% annually, as well as the loss suffering by the then Indian Airlines from 1989 to 1990, if the concern workman is regularized and/or reinstated it will render futile the whole process of the revival of the Company, is also found not relevant in this reference since the workman being a casual labour was dis-engaged/retrrenched by refusing him to join after he was discharged by the learned C.J.M., Kamrup, Guwahati as the workman had been working since long with effect from 1.1.81 without any break.

16. In view of the discussion and the findings arrived at as above, it can safely be held that the action of the management of Indian Airlines Corporation in not reemploying the workman Sri Suresh Basfore after his discharge from the Court (not finding him guilty of the charge of theft) is illegal and not justified.

The workman in his evidence prayed for directing the management to pay his back-wages with effect from April, 1989 till the date of his re-engagement and such compensation found due according to law. But there is no iota of evidence on record to show that after his disengagement the workman had not been working in any occupation for gain nor there was no alternative source of his livelihood. However, the workman has been fighting for his cause since 1992 and due to long pendency of this proceeding he had to face much difficulties and to suffer a lot which affect his financial condition also. As such, I am inclined to award a lump sum compensation to the workman amounting to Rs.2,00,000/- (Rupees two lakhs), which I hope, would meet the ends of justice.

17. Accordingly this reference is disposed of on contest directing the management to re-engage/reinstate the workman as casual labourer/Loader and to pay the compensation amounting to Rs.2,00,000/- (Rupees two lakhs). However I award no cost.

Send the Award to the Ministry immediately as per procedure.

Given under my hand and seal of this Court on this 30th day of October, 2015.

L. C. DEY, Presiding Officer

नई दिल्ली, 11 जनवरी, 2016

का.आ. 100.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ़ त्रावणकोर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण चैन्नई के पंचाट (संदर्भ संख्या 14/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.01.2016 को प्राप्त हुआ था।

[सं. एल-12012/85/2014-आई आर (बी-1)]
विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 100.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 14 of 2015) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of State Bank of Travancore and their workman, received by the Central Government on 11-01-2016.

[No.L-12012/85/2014-IR(B-I)]
VINAY KUMAR, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT, CHENNAI

Tuesday, the 15th December, 2015

Present : K. P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 14 of 2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of State Bank of Travancore and their workman)

BETWEEN

Sri G. A. Paulraj : 1st Party/Petitioner

AND

1.The Managing Director : 2nd Party/1st Respondent
State Bank of Travancore
Poojapura
Thiruvananthapuram-605012

2.The Branch Manager, 2nd Party/2nd Respondent
State Bank of Travancore
Thiruvannamalai Branch
Thiruvannamalai, Tamilnadu

Appearance:

For the 1st Party/Petitioner: M/s. A. Gunaseelan,
Advocates

For the 2nd Party/1st and : Sri S. Jayaraman, Advocate
2nd Management

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-12012/85/2014-IR (B.I) dated 22.01.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the demand of the workman Sri G.A. Paulraj, in seeking regularization as Sub-Staff in State Bank of Travancore is legal and justified? If so, to what relief the concerned workman is entitled?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 14/2015 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The case had been posted for enquiry after steps were completed. Thereafter the counsel for the Respondents has raised the issue of maintainability of the dispute and the petitioner's counsel had sought time to get the reference schedule amended. Thereafter though repeated postings were made, neither the petitioner nor his counsel were present. There was never any representation on behalf of the petitioner also.

4. What is to be assumed is that the petitioner is not interested in pursuing the matter. He has not placed any material before this Tribunal to substantiate his case. So the reference is to be answered against the petitioner.

In the result the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 15th December, 2015) .

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex. No.	Date	Description
	Nil	

On the Respondent's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 11 जनवरी, 2016

का.आ. 101.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बंबई मर्केंटाइल सहकारिता बैंक लिमिटेड प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-II, दिल्ली के पंचाट (संदर्भ संख्या 3/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल.12012/52/2008-आई आर (बी-I)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 101.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No.II, Delhi as shown in the Annexure, in the industrial dispute between the management of Bombay Mercantile Co-opt. Bank Ltd. and their workman, received by the Central Government on 11/01/2016.

[No. L-12012/52/2008- IR (B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, DELHI

Present:- Shri Harbansh Kumar Saxena, Presiding Officer

ID. No. 3/2008

Syed Moazzam Ali Zaidi,
F/o Gali Bishtyan,
Moh: Lal Masjid, Rampur (U.P.)
Rampur.

...Workman.

Versus

The Deputy General Manager,
Bombay Mercantile Co-opt. Bank Ltd.,
36, Netaji Subhash Marg,
Darya Ganj,
New Delhi-02

...Management

AWARD

The Central Government in the Ministry of Labour vide notification No. L-12012/52/2008-IR(B-I) dated 11.03.2008 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the dismissal of Sri. Syed Mozzam Ali Zaidi by the management of Bombay Mercantile Co-opt. Bank Ltd. is justified and legal? If not, what relief is the workman concerned is entitled and from which date?

On 14.03.2008 reference was received in this Tribunal. Which was register as I.D No. 03/2008 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 16.05.2008. Where-in he prayed as follows:-

It is therefore, in the above-mentioned facts and circumstance most respectfully prayed before this Hon'ble Forum to direct the management to quash the Enquiry Officer's Report and the Office Orders dated 24.02.2003 and 12.03.2003 in terms of which dismissal of the workman has been given effect to, accordingly directions be issued for the re-instatement of the workman with Full Back Wages, Incidental Benefits, Consequential Benefits, Dues, Continuity of Service, etc. retrospectively w.e.f. May, 2002; and Pass such other or further Orders as may be deem fit and proper in the facts & circumstances of the present case in favour of the workman and against the management/Respondent.

Against claim statement management filed written statement on 27.6.2008 Through which management prayed as follows:-

In the light of submissions made hereinabove, it is most respectfully prayed before this Hon'ble Court that the statement of claims filed by the workman may please be dismissed with costs and proceeding be dropped.

Pass any further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Workman on 16.08.2008 filed rejoinder. Through which he reaffirmed the contents of claim statement and on the same day he filed affidavit in his evidence. He examined himself as WW1 on 8.4.2015 and tendered his affidavit on 8.04.15.

His examination-in-chief is as follows:-

I tender my affidavit as evidence, which is Ex. WW1/ A . Alongwith this affidavit, I rely on appointment letter dated 24.02.1989, confirmation letter dated 10.02.1990, promotion letter dated 27.02.1991, another promotion letter dated 18.10.1996, confirmation letter dated 14.05.1997, medical certificates of my sister and her death certificate, true copy of my leave record, true copies of letter dated 30.04.2002, letter dated 15.04.2002, letter dated 19.08.2002, letter dated 25.09.2002, letter dated 14.02.2003, letter dated 10.03.2003, letter dated 25.09.2003, letter dated 01.12.2004, letter dated 15.01.2005, postal receipts in respect of the aforesaid letters besides AD cards, true copy of leave application dated 01.09.2001, telegram receipt dated 28.09.2001 alongwith medical record pertaining to my illness, demand notice dated 07.02.2006, postal receipt and AD card in respect of the demand notice, which documents

are Ex. WW1/1 to Ex. WW1/61. These documents may be read along with my affidavit.

Workman on 12.08.2013 was partly cross-examined. His statement is as follows:-

Affidavit was prepared at my directions. Contents of affidavit were read over to me, then I signed I have five brother two sisters. Third (sister) was expired in 2003. There was none to look after my sister except me. Best possible treatment was done in reputed hospitals of U.P. I have no approach in Delhi to get the medical facilities in Delhi Hospitals. I was charge-sheeted in enquiry. Against charge-sheet I filed reply. Enquiry was proceeded against me ex-parte. It is wrong to say against me Ex-parte. It is wrong to say that I wrote a letter to Presenting Officer that I am unable to come on 12.12.2002. It is also wrong to say that I knowingly not participated in Enquiry. I am aware of the fact that Renu Sethi was examined in enquiry who deposed in favour of bank against me.

It is wrong to say that bank again and again providing me an opportunity to come and join the duty but I avoided.

Q. In part you were habitual of not coming in officer and for leave not moving application?

A.No.

Q. Whether you availed leave without leave application on 3.9.2001 to 18.2.2002?

A. No.

Q. Whether your medical certificate was found false when you was examined by another Doctors?

A. Department appointed Doctor to verify my medical certificates examined me after three months since ailing. He required from me charge of ECG etc. on which I objected and said that expenses shall be borne by bank. WW1 is conducting my medical to show my previous medical certificate false.

My leave application reg. 22.4.2002 was granted by concerned authority.

Q. Whether it is correct that you moved no application for extension of leave upto 4.6.2002.

A. No.

Workman was again cross-examined on 20.08.2013. His statement of cross-examination is as follows:-

It is correct that contents of para no.4 in my affidavit is true. Sayed Wasif Zaidi brother of me was employed in Moradabad. Kumari Saba Akhtar Mumtaz was resident of city and dist. Rampur. I don't know whether it is mention in the petition that my sister is independent. I cannot mention the reason of not mentioning the above fact in the petition.

I am employee of Bank but not aware of the rules and regulation of Bank. I am aware of leaves of Bank. It is wrong to say that allegation raised by me against the management is totally wrong. There is a employer union in Bank but I am not a member. I made no complaint to union regarding my harassment in the Bank but I raised protest before the senior officer of Bank. At this time it is not in my memory whether I mentioned it or not. I again regain my memory and mention the fact. Mentioned above I made complain before Senior Officer about forceful medical examiner demanding fees for ECG etc. I made aforesaid complain to G.M. for changing the doctor. It is correct that I allege against commitment of unfair labour commitment against me. But content of para 11 of affidavit is correct. It is wrong to say that my demand 7.2.2006 is totally wrong. I don't know whether any leave of me is due or not.

My permanent address which are in the Bank Office and in the filed affidavit is having the same address. No letter have been issued to me regarding my permanent address. No notice send by bank or received by me so far. It is wrong to say that knowingly I launched against me. It is wrong to say I made wrong industrial dispute on wrong and concocted facts.

On 13.12.2013 affidavit of MW1 Sh. Syed Ali Zaheer Zaidi was filed. Which was tendered on 27.01.14. His examination –in-chief is as follows:-

I tender in evidence my affidavit Ex. MW1/A which bears my signature at point 'A' & 'B'. I rely upon my documents Ex.MW1/1 to MW1/36.

MW1 was cross-examined on 14.3.2014 and his cross-examination is as follows:-

Workman joined Bank as a peon. After six seven years workman was promoted as clerk criteria for promotion from peon to clerk is departmental test, efficiency and performance. Upto the stage of promotion from peon to clerk his record was good.

He had gone on long leave first time on 3rd of September 2001.

Vol. stated he went on unauthorized leave. After long leave workman has not joined service till now.

It is wrong to suggest that workman was on leave from 03.09.2001 upto Feb. 2002 on account of severe jaundice.

In 3rd Sep. 2001 the workman was posted in Delhi Branch.

Sh. Shakeel Haider was the Delhi Branch Manager under whom workman was working till September 2001.

There is procedure in the Bank for receiving application for leave and sanctioning the same.

I do not know whether workman had got any application sanctioned from Mr. Shakeel Haider.

I identify the signature of Sh. Shakeel Haider as I worked with him.

Ext. WW1/19 does not bear the signature of Mr. Shakeel Haider.

It is correct that application dated 1.09.2001 has been received in the Bank.

Workman has not submitted any medical certificate in respect of his illness starting with effect from September 2001.

Q. Whether the medical record Ext. WW1/46 to WW1/58 has been received by the Bank?

A. I am not sure.

In the Feb. 2002 the workman was sent to Bank Dr. Nitin Batra for check up.

It is wrong to suggest that workman was sent for medical examination on the ground of exhibited record. The workman was under treatment in the month of 2002.

Mr. Rizabanullah Sheikh was Savings Branch Manager.

It is correct that workman was posted under Mr. Rizabanullah Sheikh in Saving Branch in month of April, 2002.

We have only one branch in Delhi Saving Branch is only extension.

I can identify the signature of Mr. Rizabanullah Sheikh.

Ext. WW1/24 bears the signature of Mr. Rizabanullah Sheikh as sanctioning authority Ext. WW1/24 has been received in the Bank.

Ext. WW1/45 bears the signature of Sh. Shakeel Haider as the Sanctioning Authority.

I am not sure whether the documents Ext. WW1/25 to Ext. WW1/44 have been received in the Bank.

Ext. WW1/24 and Ext. WW1/45 application dated 20.4.2002 and 1.9.2001 are part of the bank record.

It is incorrect to suggest that Ext. MW1/22 and Ext. MW1/23 are manufactured documents.

I will produce the aforesaid documents on next date. The sole reason for initiating the inquiry against workman was that he had gone on leave without prior intimation and sanction.

I do not know whether the inquiry officer is on the Bank Panel as Inquiry officer. This inquiry was ex-parte. Documents of workman on record have not been considered by the inquiry officer.

I was not appeared before the inquiry officer.

It is wrong to suggest that workman has approached the bank for settlement on several occasions.

The workman was not allowed to join after his dismissal. I do not know whether workman is unemployed now.

It is wrong to suggest that manufactured documents were presented before the inquiry officer.

It is wrong to suggest that punishment of Dismissal had already been suggested to the inquiry officer.

It is wrong to suggest the prior intimation and sanction of leave would not have called for an inquiry.

The workman was average in his performance.

It is wrong to suggest that workman had gone on leave after proper sanction.

It is incorrect to suggest that you are deposing falsely.

On 13.5.2014 affidavit of MW2 Sh. Rais Ahmed was filed. Which was tendered on the same day. His examination –in-chief is as follows:-

I tender in evidence my affidavit Ex. MW2/A which bears my signature at point 'A' & 'B'.

MW1 was cross-examined on 7.1.2015 and his cross-examination is as follows:-

The workman joined the Bank as a peon on salary payable as per rule which I have no knowledge.

Thereafter in the year 1996 workman had promoted to clerk.

The criteria for such a promotion is written test and interview.

However the main basis for promotion is efficiency and performance.

The workman after being promoted as a clerk was posted in the current branch.

Mr. Shakeel Haider was the branch manager of the said branch.

I have worked with Mr. Shakeel Haider and I can identify his signatures.

Ex. WW1/45 bears the signature subsequently he denied the signature of Mr. Shakeel Haider. The same Exhibit bears the signature of workman.

I am not aware whether the letter received by bank or not.

Q1. Is it correct that the workman had given a leave application dated 01.09.2001 for sick leave to the Branch Manager Mr. Shakeel Haider who had also sanctioned the

sick leave? (Exh. WW1/45)?

A. Sanction order passed on it appears to be doubtful to me.

The original of the aforesaid leave application is with the bank.

Ex. WW1/45 has not been presented by the management either before the inquiry officer or before this Hon'ble Court because workman has not given such application to the bank.

Q2. Whether the medical report in support of aforesaid application had been received in the bank. Which is Ex. WW1/46 to 56?

A. I am not aware of it.

Q3. What is the period of absentism of the workman?

A. I do not remember properly subsequently stated 3.9.2001 to 18.2.2002.

Q4. Whether you can specify any other period of absentism ?

A. I do not remember.

Q5. When was the workman sent for the medical checkup after joining from sick leave in the month of February 2002?

11.2.2002 but workman was not turn up before the bank doctor for medical checkup.

Q6. Is it correct that in para 2 of your affidavit you have mentioned on oath that the workman has reported for medical checkup?

Yes it is correct.

Vol. He appeared on 12th Nov. before the doctor without doctor prescription. Then he reported.

Q7. Do you know Ms. Rizwan-ul-Sheikh?

A. He was savings branch incharge.

Q8. Is it correct that workman in the month of April 2002 was working under the above named savings branch incharge Rizwan-ul-Sheikh?

A. I do not know.

Q9. Whether you can recognize the signature of Rizwan-ul-Sheikh?

A. Yes.

Q10. Whether Ex. WW1/24 bears signature of Rizwan-ul-Sheikh as sanctioning officer?

A. No.

It is wrong to suggest that the workman has always proceeded on leave with prior sanction vide Exh. WW1/24 & WW1/45

Q11. Whether you know Syed Ali Zaheer Zaidi?

A. Yes I know him. He is an officer of the bank.

I am not senior to him. He is responsible officer of the bank.

Q12. Whether you have brought the originals of the Exh. MW1/22 and MW1/23 with you?

A. I have not brought.

Mr. Zaheer has not asked me to present the aforesaid Exh, in original before this Hon'ble Court.

Q13. It is correct that absentism without approval and sanction is the only charge against the workman?

A. Yes It is correct.

It is correct to suggest that the workman would not have been dismissed from the service if he would have sought approval or sanction of the leave.

I have full knowledge of the present case.

Q. It is correct to suggest that the workman for the reason of his continuous unemployment has approached the management for settlement regularly during the pendency of this case?

A. Workman only approached once.

Q. The inquiry officer was appointed by the bank?

A. I do not remember the name of the inquiry officer.

The workman was not appeared before the inquiry officer.

Q. Whether you have presented the leave sanction / approval letters, medical record submitted by the workman, death certificate of the sister, medical report/record before the inquiry officer consideration?

A. All documents were produced before the inquiry officer.

It is wrong to suggest that the above mentioned documents were not presented before the inquiry officer.

It is wrong to suggest that I am deposing falsely.

On 23.2.15 affidavit of MW3 Sh. Afzal-ul-Rehman Khan was filed. Which was tendered and he cross-examined on 18.8.2015.

His examination –in-chief is and cross-examination is as follows:-

I am tendering my affidavit in my evidence as Ex. MW3/A which bears my signature at point 'A' & 'B'. Contents of affidavit are based on my personal knowledge as well as on record.

XXX:- By Sh. Tarun Sharma, Ld. A/R for the workman.

I am not aware about panel of inquiry officer of the respondent Bank.

This is the only inquiry which was conducted by me.

I sent notice to workman at his address of District Rampur & Delhi.

I have not issued any notice to be sent to the workman by hand.

I have not passed any order for sending the inquiry proceeding notice to the workman by hand.

No, leave sanctioned document were presented by the presenting officer in the inquiry proceedings on behalf of the management.

Q1. Is it correct that workman's illness documents were not shown to you by the presenting officer?

A. No.

Vol. stated. The presenting officer has not presented himself the case of the workman.

Q2. Is it correct that workman's real sister cancer disease documents & subsequently her death certificate was also not presented in the inquiry proceedings by the presenting officer?

A. No.

Vol. As Above.

Q3. What were the steps taken for a fair inquiry on receipt of left without address service report?

A. I sent another notice which had not been received back either served or unserved. But I presume service on workman under provision mentioned in CPC when notice is not returned bank within one month then service of notice is presumed.

Q4. Can you tell this provision?

A. No.

Q5. Is it correct that you have proceeded Ex-parte against workman in haste under the pressure of the management?

A. It is wrong.

Q6. Do you know Dr. Batra Personally?

A. No.

Q7. Have you ever met Dr. Batra ?

A. No.

I have no personal knowledge about the examination of the workman by Dr. Batra.

Q. Is it correct to say that Dr. Batra had examined the workman after he had recovered from his illness?

A. I have no personal knowledge.

It is wrong to suggest that I have conducted the inquiry procedure ex-parte under the directions of the management.

It is wrong to suggest that I am deposing falsely.

It is wrong to suggest that I have no personal knowledge of the Exh. Documents.

Through registered post workman sent copy of additional synopsis. Copy receipt of registered post letter filed by workman. Which was delivered to management. Sufficient opportunities have been afforded to management to file reply of additional synopsis if any by management. But management inspite of sufficient opportunities has not filed any additional synopsis in reply.

In the light of pleadings and evidence of parties on record as well as principles laid down in aforesaid rulings including settled law and relevant provisions of law. My findings on issue no. 1 are as follows:-

In the light of contentions and counter contentions I perused the questions of determination mentioned in the schedule of reference, pleadings of claim statement, written statement, and rejoinder as well as evidence of parties on record and principles laid down in the cited rulings including settled law on the point of virus on enquiry and other relevant provisions of other relating laws.

Perusal of schedule of reference shows that there are following questions of determination mentioned in it:-

“Whether the dismissal of Sri. Syed Mozzam Ali Zaidi by the management of Bombay Mercantile Co-opt. Bank Ltd. is justified and legal? If not, what relief is the workman concerned is entitled and from which date?”

Out of which question of determination no. 1 includes in itself enquiry issue as my Ld. Predecessor has not formulated any issue but proceeded further on the basis of Questions of determinations.

Under determination of question of determination No.1. it is to be determined whether disciplinary enquiry conducted by management against workman Sri. Syed Mozzam Ali Zaidi, is just, fair and legal? If so its effect?

Burden to prove it lies on management. It is admitted fact that enquiry against workman was conducted ex-parte by Sri Afzal -ul -Rehman Khan Suri. Who submitted enquiry report dated 25.1.2003 on 24.2.2003 . Disciplinary

Authority after being satisfied with enquiry report proposed following punishment to the workman:-

“Dismissal from the services of the Bank without Notice”

Workman through his oral and documentary evidence proved that he submitted an application for leave (Ext. WW1/24) to attend his seriously ill sister Km. Suba Aktar Mumtaz at his house situated in Rampur (U.P.). The leave of workman was duly sanctioned by Sh. Rizwan-ul- Shaikh, Saving Branch Manager- Sanctioning Officer from 22.04.2002 to 4.5.2002.

Application for extension of leave from 5.5.2002 to 8.6.2002 on the ground of illness of the ailing sister was immediately sent by workman to the management through under postal certificate. Which are Ext. WW1/25 to Ext. WW1/26.

On 4.6.2002 management through letter Exh. MW1/1 immediately asked the workman to report on duty for the reason that the workman had been absent since April 2002 without proper sanction or application / information etc.

Workman on 13.6.2002 sent reply vide under postal certificate which are Exh. WW1/27 and Ext. WW1/28.

Through, which he informed the management that his leave has been duly sanctioned by the Sanctioning Officer, Rizwan-ul-Sheikh saving branch manager on the application for leave dated 20.4.2002. Which is Ext. WW1/24. The workman further, requested for the extension of leave with effect from 9.6.2002 to 6.7.2002 so that he can attend to his ailing sister.

It is relevant to mention here that charge sheet dated 5.7.2002 Ext. MW1/3 has been issued to workman by management. A Domestic Enquiry was proposed to be conducted against the workman on the basis of charges mentioned in charge sheet.

An explanation of workman was called upon within ten days since receipt of the charge sheet. Reply to the charge –sheet was submitted on 15.7.2002 by the workman through under postal certificate. Wherein both charges were denied by the workman. Reply and postal certificate is Ext. WW1/29 & WW1/30.

The ailing sister of workman could not fight the dreaded Breast Cancer and died on 13.2.2003. Her medical record is Ext. WW1/6 to Ext. WW1/22 and her death certificate is Ext. WW1/23.

Information pertaining to the Death of the workman's sister was duly given to the management by letter sent through fax on 14.2.2003.

Even then an office order on 24.2.2003 has been passed by management to propose the following punishment to the workman:-

“Dismissal from the services of the Bank without notice”.

The said Proposal was based upon the Findings dated 25.01.2003, which have been arrived at by the Enquiry Officer, Mr. Afzal-Ul-Rehman Khan Suri, in a Domestic Enquiry conducted into the Charges leveled against the Workman vide the Charge Sheet dated 05.07.2002. The Charges were proved by the Presenting Officer by leading Oral & Documentary Evidence on behalf of the Management in an Ex-Parte Domestic Enquiry before the Enquiry Officer. The Workman was advised to make submissions on the said Proposal on or before 12.03.2003.

Workman filed claim statement on 16.5.2008 alongwith 58 Photostat copies of documents .

Management filed its written statement on 26.6.2008. Workman filed rejoinder on 2.8.2008. Workman has moved an application in this case for mediation for the reason of his poverty and unemployment on 20.05.2009 but management took no interest so settlement proceedings failed.

Management Bank with an ulterior motive to prolong the disposal of instant I.D. challenged the jurisdiction of this Tribunal by way of filing frivolous writ-petition on 7.6.10 in Hon'ble High Court . Which has been decided and dismissed on 25.04.2012. So management left no stone unturned to prolong the disposal of this I.D.

No formal issues have been framed by my Ld. Predecessor. He proceeded to adjudicate the instant Industrial Dispute on the basis of the questions of determination mentioned in the schedule of reference .

Workman has filed affidavit in his evidence alongwith 58 documents.

He tendered his affidavit WW1/A and annexed 58 photostat copies of documents to prove his case that he has proceeded on leave with a sufficient cause to attend his seriously ailing sister after getting the leave duly sanctioned from the supervisory Branch Manager.

He was cross-examined at length by management but nothing could be extracted one in his cross-examination. Which may damage his case and could be favourable to management.

Management with intention to discharge its burden to prove the alleged bonafide dismissal of the workman examined MW1 Syed Ali Zaheer Zaidi, MW2 Rais Ahmed and MW3 Afzal -ul -rehman Khan suri Enquiry Officer, They were cross-examined by Ld. A/R for workman. Then they admitted certain glaring facts in their cross examination as follows:-

CROSS-EXAMINATION: MW-1: SYED ALI ZAHEER ZAIDI: OFFICER

The Witness admitted as follows:-

“Criteria for being promoted from Peon to Clerk is Departmental Test, Efficiency and Performance upto the stage of promotion from Peon to Clerk as per record was good.

On 03.09.2001 the Workman was posted in Delhi Branch.

Shri Shakeel Haidar was the Delhi Branch Manager under whom Workman was working till September, 2001.

There is a procedure in the Bank for receiving Application for Leave and sanctioning the same.

I do not know whether the Workman had got any Application sanctioned from Mr. Shakeel Haidar.

I identify the signature of Shri Shakeel Haider as I worked with him.

It is correct that the Application dated 01.09.2001 (**EXHIBIT WW1/45**) has been received in the Bank.

The Workman was under treatment in the Month of February, 2002.

Rizwan-Ul-Shaikh was Savings Branch Manager.

It is correct that the Workman was posted under Rizwan-Ul-Shaikh in Savings Branch in the Month of April, 2002.

I can identify the signature of Rizwan-Ul-Shaikh.

(**EXHIBIT WW1/24**) bears the signature of Rizwan-Ul-Shaikh as Sanctioning Authority.

(**EXHIBIT WW1/24**) and (**EXHIBIT WW1/45**) Application dated 20.04.2002 and 01.09.2001 respectively are part of the Bank Record.

It is incorrect to suggest that (**EXHIBIT MW1/22**) and (**EXHIBIT MW1/23**) are manufactured Documents.

I will produce the aforesaid Documents on the Next Date.

This Enquiry was Ex-Parte. Documents of Workman on Record of this Bank have not been considered by the Enquiry Officer.

The Workman was not allowed to join after his dismissal.

CROSS-EXAMINATION: MW-2: RAIS AHMED

The Witness admitted as follows:

The Workman joined the Bank as a Peon on a Salary Pay Scale as per Rule, which I have no knowledge.

Thereafter, in the Year 1996 Workman was Promoted as a Clerk.

The Criteria for such a Promotion is Written Test & Interview.

However, the main basis for Promotion is Efficiency and Performance.

The Workman after being promoted as a Clerk was in the Current Branch.

Mr. Shakeel Haidar was the Branch Manager of the said Branch.

I have worked with Mr. Shakeel Haidar & I can identify his signatures.

(**EXHIBIT WW1/45**) bears the signature. Subsequently he denied the Signature of Mr. Shakeel Haidar.

Q.1 Is it correct that the Workman had given a Leave Application dated 01.09.2001 for Sick Leave to the Branch Manager Mr. Shakeel Haidar, who had also sanctioned the Sick Leave (**EXHIBIT WW1/45**)?

Ans. Sanction Order passed on it appears to be doubtful to me.

The Original of the aforesaid Leave Application is with the Bank.

Q.7 Do you know Mr. Rizwan-Ul-Sheikh?

Ans.

He was Savings Branch In-Charge.

Q.9 Whether you can recognize the Signature of Rizwan-Ul-Sheikh?

Ans. Yes.

Q.12 Whether you have brought the Originals of the (**EXHIBIT MW1/22**) and (**EXHIBIT MW1/23**) with you?

Ans. I have not brought.

Q.13 Is it correct that Absenteeism without approval & sanction is the only Charge against the Workman?

Ans. Yes, it is correct.

It is correct to suggest that the Workman would not have been dismissed from Service if he would have sought approval or sanction of the Leave.

Q.14 Is it correct to suggest that the Workman for the reason of his continuous Unemployment has approached the Management for Settlement regularly during the pendency of this Case?

Ans. Workman only approached once.

CROSS-EXAMINATION: MW-3: AFZAL-UL-REHMAN KHANSURI:

The Witness admitted as follows:

I sent Notice to Workman at his address of District Rampur & Delhi.

I have not issued any Notice to be sent to the Workman by hand.

I have not passed any Order for sending the Enquiry Proceeding Notice to the Workman by hand.

No, Leave Sanctioned Documents were presented by the Presenting Officer in the Enquiry proceedings on behalf of the Management.

No Documents relating to Workman's illness were shown.

No Documents relating to the Workman's Deceased Sister Cancer ailment and death thereof were presented in the Enquiry Proceedings by the Presenting Officer.

Q.3. What were the Steps taken for a Fair Inquiry on receipt of Left without Address Service Report?

Ans. I sent another Notice which have not received back either served or un-served. But I presumed Service on Workman.

Under provision mentioned in Civil Procedure Code when Notice is not returned back within one Month then Service of Notice is presumed.

Q.4. Can you tell this Provision?

Ans. No.

Which in itself sufficient to prove the case of workman and falsify the management stand.

In addition to it MW3 Afzal-ul-Rehman Khan Suri Enquiry Officer presumed the service of 2nd notice to workman without applying prescribed procedure. According to which management has to file postal receipt of registered post during enquiry. Through which notice to workman is said to be sent. Thereafter Enquiry Officer must call for report from concerned Post Office regarding dispatch and delivery of registered letter to workman. Only after that enquiry officer was empowered to presume service of registered notice on workman otherwise not.

Moreover management bank has presented two photo copies of applications alongwith affidavit in evidence of MW1 Syed-Ali Zaheer Zaidi. Which are said to be leave applications of workman filed by him on 22.2.2002. While this fact was denied by workman. Those photo copies of applications have been marked as Ext. MW1/22 and MW1/23 during cross-examination of MW1 in the absence of the original applications. When MW1 was cross-examined then he stated that he will produce the original applications in

the Tribunal. However, till date there is no compliance of the aforesaid undertaking by management. In these circumstances this Tribunal compelled to draw an adverse inference against management due to non-production of aforesaid original applications by management as per provisions of S.114(g) of the Indian Evidence Act. Which will be that the original of the Ext. MW1/22 and MW1/23 do not exist at all and possibility that these documents are forged and manufactured by the management cannot be ruled out. Reason may be whatsoever.

Ld.A/R for workman placed reliance on following principles laid down by his Lordship of Hon'ble High Court of Allahabad in case of Virendra Singh Vs. Managing Director U.P. S.R. T.C Lucknow & Ors. 1196 LLR 340 Allahabad High Court.

“Petitioner absented from duty without notice – submitted medical certificate when resumed duty suspended –charge sheet served for absents from duty- Replied- Enquiry held- Removal from Service –Whether punishment was disproportionate to this misconduct?

Yes.

Held

“The only finding of the enquiry officer is that the petitioner was absent without any prior intimation and after he joined he produced medical certificate. Neither the genuineness of the medical certificate nor the factum of ailment has been disbelieved by the enquiry officer for remaining absent from duty without any prior intimation. In this circumstances the punishment of removal from service is grossly disproportionate particularly when ailment could not be notified ordinarily before such ailment and when admittedly the petitioner has produced the medical certificate for such an ailment which has been certified by the proper medical officer, there can not be any offence of the petitioner at all unless the ailment itself or medical certificate is found untrue. It appears that the said aspect has not been properly considered by the disciplinary authority or the appellate authority keeping in mind the charges leveled against the petitioner.”

Ld.A/R for the workman also placed reliance on following principle laid down by their Lordship of Hon'ble Delhi High Court in case of DTC Vs. Om Singh 144(2007) Delhi Law Times 94(D.B.)

“Period of absence of 14 days stand explained by application and medical certificate submitted by respondent while reporting for duty”.

Ld. A/R for the workman also placed reliance on following principle laid down in case of Mohd. Yousuf Vs. D.G of Fire Services (2013) 4 S.S.C. 265.

“Notice with regard to departmental enquiry and copy of enquiry report sent at wrong address- Hence held,

ex-parte enquiry and consequent order of dismissal are unsustainable.”

Ld. A/R for the workman also placed reliance on principle laid down in case of *Sunil Kumar Vs. 178 (2011) Delhi Law Time 628 (DB)*.

Ld. A/R for workman also placed reliance on principle laid down in case of *S.P. Chengalvaraya Naidu Vs. Jagan Nath A/R 1994 S.C. 853*.

Ld. A/R for the management tried to distinguish facts of aforesaid reported case of *Virendra Singh* with the facts of instant case and stressed that due to distinguishable facts ruling of *Virendra Singh* is not applicable in the instant case.

Moreover in the instant case Dr. Batra was not examined by management so only pleadings in this respect without testimony of Dr. Batra will not prove the aforesaid alleged stand of management .

So, I am of considered view that principles laid down in case *Virender Singh Supra* applies with full force in the instant case.

Ld. A/R for management also tried to distinguish facts of aforesaid reported case of *D.T.C Vs. Om Singh* with the facts of instant case on the ground that management has challenged the medical certificate filed by workman but management failed to adduce any evidence of any Doctor in this respect. So only pleadings of management in its W.S without any evidence is of no avail to management because pleadings without evidence is waste paper.

So, I am again of considered view that principle laid down in case *D.T.C Vs. Om Singh Supra* also applies with full force in the instant case.

Ld. A/R for management also tried to distinguish facts of aforesaid reported case of *Mohd. Yusuf Vs. Director General Of Fire Services 2013 4 S.C.C 265* with the facts of instant case on the ground that notice with regard to departmental enquiry and copy of inquiry report was sent at the correct and last known address and the address which are with the bank record and workman has mentioned the same address in his affidavit in evidence but Ld. A/R for the management over looked this fact that his witness MW3. Who is enquiry officer admitted this fact in his cross-examination that he sent another notice. Which have not received back either served or unserved. But I presumed service on workman under provision mentioned in Civil procedure Code when notice is not returned back within one month then service of notice is presumed.

It is relevant to mention here that MW3 Afzal-ul-Rehman—Khan Suri enquiry officer presumed the service of 2nd notice to workman without applying prescribed procedure.

According to which management has to file postal receipt of Registered Post through which notice to workman is said to be sent.

As per settled law Enquiry Officer must call for report from concerned Post Office about dispatch & Delivery of registered notice. After being satisfied he will presume service of Registered Notice on workman. This fact is also wanting in the instant case.

Hence in the instant case whole procedure has been brushed aside by Inquiry Officer , while presuming service of alleged 2nd registered notice on workman.

So case of workman stands on better footing then reported case hence principle laid down by their Lordship of Supreme Court applies with full force in the instant case. Rulings cited on behalf of management are inapplicable in the instant case due to distinguishable facts.

Hence ex-parte enquiry and consequent order of dismissal are unsustainable because enquiry is not just, fair and legal therefore enquiry report is liable to be set aside and question of determination No.1 is liable to be decided in favour workman and against management. Which is accordingly decided.

Ld. A/R for the workman on the point of issue No. 2 placed reliance on following rulings mentioned in his written arguments:-

1.*Virendra Singh Versus Managing Director, U.P. State Road Transport Corporation Lucknow & Ors: 1996 LLR 340 Allahabad High Court.*

2.*D.T.C Versus Om Singh : 2007 Delhi Law Times Volume-144 P-94.*

3.*Mohd. Yousuf Versus Director General of Fire Services, Andhra Pradesh and Others :2013 Supreme Court Cases Volume 4 Page 265.*

4.*Sunil Kumar Versus UOI & Ors.: 2011 Delhi Law Times Volume -178 Page -628.*

While Ld. A/R for the management filed photocopies of Judgment of appeal in following appeals:-

Appeal No.1

Appeal (civil) 2332 of 2003

Petitioner:

Principal Secy. Govt. of A.P. & Anr.

Respondent:

M. Adinarayana

Date of Judgment : 06.10.2004.

Appeal No.2

Appeal (civil) 1720 of 2002

Petitioner:

Divisional Controller, KSRTC (NWKRTC)

Respondent:

A.T Mane

Date of Judgment: 27.09.2004

Appeal No. 3

Appeal (civil) 9676 of 2003

Petitioner:

Viveka Nand Sethi

Respondent:

Chairman, J & K Bank Ltd., & Ors.

Date of Judgment: 03.05.2005.

Ld.A/R for workman filed additional synopsis. Through which he placed reliance on principles laid down in following rulings:-

Deepali Gundu Surwase Versus Kranti Junior Adhyapak Mahavidyalaya (D.Ed.) & Others.:2013 Volume – X Apex Decisions (Supreme Court) Page-89.

Relationship of employer and employee is admitted fact to employer /management in the instant case.

Employer /management could not prove the charge of unauthorized absence from duty levied on employee through its required evidence. While workman has well required evidence. While workman has well explained his alleged absenteeism through his reliable and credible evidence hence his termination is not legal and justified.

Now it is to be decided to what relief workman is entitled and which direction is required to be given to employer /management for compliance of award.

Hence settled law of Hon'ble Supreme Court on the aforesaid points and cited rulings on behalf of parties are being perused.

Perusal of which shows that in case of **Raj Kumar Dixit Vs. M/s. Vijay Kumar Guari Shankar Kanpur Nagar 2015 L.L.R 990.**

Their Lordship of Supreme Court held as follows:-

“When termination of service of workman is held bad in law, the workman is entitled to the relief of reinstatement with full back wages as per settled principle laid down by their Lordship of three –Judges bench of Hon'ble Supreme Court in case of Punjab Land Development & Reclamation Corporation Ltd. Vs. Presiding Officer, Labour Court, (1990) 3S.S.C 682.

On the basis of aforesaid discussion I am of considered view that question of determination No. 2 which

is relating to relief alongwith reference is liable to be decided in favour of workman and against management. Workman is entitled to reinstatement with full back wages since date of his dismissal i.e May, 2002 and management is liable to be directed to reinstatement the Workman Syed Moazzam Ali Zaidi, alongwith full back wages and other consequential reliefs within reasonable time. Reference is accordingly decided and claim statement of workman is accordingly allowed.

Management is directed to reinstate the workman Syed Moazzam Ali Zaidi, since date of dismissal i.e May, 2002 with full back wages and other consequential reliefs within 2 months after expiry of period of limitation of available remedy against this award.

Award is accordingly passed.

Dated:-23.12.2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 11 जनवरी, 2016

का.आ. 102.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर रेलवे प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 63/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था ।

[सं. एल-41011/110/2009-आई आर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 102.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 63/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workman, received by the Central Government on 11/01/2016.

[No. L-41011/110/2009- IR (B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT

LUCKNOW,

PRESENT:

SHRI RAKESH KUMAR, Presiding Officer

I.D. No. 63/2011

Ref.No.L-41011/110/2009-IR (B-I) dated :19.04.2011

BETWEEN

Mandal Sangatan Mantri
Uttar Railways Employee Union
283/63, Kh Gadi Kannora (Premvati Nagar)
PO Manak Nagar
Lucknow

(Espousing cause of Shri Radhey Shyam)

AND

1. Dy. Chief Engineer (Construction)
Uttar Railway, Charbagh
Lucknow.
2. Dy. Chief Manager (Stores)
Northern Railway, Stores Depo
Alambagh, Lucknow.

AWARD

1. By order No. L-41011/110/2009-IR (B-I) dated: 19.04.2011 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangatan Mantri, Uttar Railways Employee Union, 283/63, Kh Gadi Kannora (Premvati Nagar), PO. Manak Nagar, Lucknow and the Dy. Chief Engineer (Construction), Uttar Railway, Charbagh, Lucknow & Dy. Chief Manager (Stores), Northern Railway, Stores Depo, Alambagh, Lucknow to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

“Whether the action of management of North Central Railway, Allahabad/Kanpur in not giving Shri Radhey Shyam, T.No. 175 status of temporary worker from the date of completion of 120 days of service is legal and justified? To what relief the workman is entitled?”

3. The case of the workman's union, in brief, is that the workman, Radhey Shyam, has been engaged as casual labour with in construction unit under opposite party No. 1 and is presently working under opposite party No. 2. It has been alleged by the workman's union that the workman under dispute was to be given temporary status after completion of 120 days of working as per P.S. N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but he was granted temporary status after five years' of his engagement, which is not only unfair labour practice but also is against Article 21 of the Constitution. Accordingly, the workman's union has prayed that the workmen concerned be granted temporary status from the date he has completed 120 days' working with consequential benefits.

4 The management of the North Central Railways has filed its written statement denying the allegations of the workman's union with submission that the workman

under dispute was initially engaged by them as Project Casual Labour in Construction Unit with intermittent gap w.e.f. 09.10.74 and has been granted temporary status on 01.01.84 vide letter No. E(NG)II/84/CL/41 dated 11.09.86. It has been submitted that the railway formulated a scheme to provide the temporary status to Project Casual Labour, circulated vide No. E(NG)II/84/CL/41 dated 1.6.84 as per directions of Hon'ble Apex Court in *Inder Pal Yadav & others Vs. Union of India & others* (1985) 2 SCC 648. The management has submitted that as per modified date of grant of temporary status, the workmen were screened and posted accordingly; and is in fruitful employment of the opposite party for last 20 years, thus, raising the present industrial disputes after lapse of 20 long years makes it time barred hence, not maintainable in the eye of law. It is specifically submitted by the management that the workman has been engaged as project casual labour and as per existing Railway Rules 360 days' continuous service is required for grant of temporary status, therefore, the claim of the workmen for grant of temporary status after 120 days is not maintainable and liable to be rejected. Accordingly, the management has prayed that the claim of the workman's union be rejected being devoid of any merit.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that the workman under dispute has not been appointed in any project, therefore, decision of Hon'ble Apex Court in *Inder Pal Yadav case (supra)* is not applicable on him and he should be granted temporary status after completion of 120 days of service.

6. The workman's union has not filed any documentary evidence in support of its claim; rather it has stated that the Casual Labour Card in respect of the workman and his Service Book, is with the employers, in original.

The management has filed photocopy of Casual Labour Card and Service Book in respect of the workman along with its written statement.

7. The workman's union has examined workman; whereas the management examined Sri Prabir Kumar Gupta, Sr. Personnel Officer in support of their claim. The parties availed opportunity to cross-examine the each other's witnesses apart from putting oral arguments as well as written arguments.

8. Heard learned authorized representatives of the parties and perused entire evidence on record.

9. The authorized representative of the workman has contended that the workman was not project casual labour; rather they were casual labour engaged in construction division/unit. Therefore, he was eligible for grant of temporary status from the date he completed 120 days of service. The railway administration instead treated him as project casual labour and granted him temporary status

after lapse of five years which is unfair labour practice. It is also contended that the decisions of the Hon'ble Supreme Court in *Indra Pal Yadav case (supra)* is not applicable on the workman. The workman's union has relied on:

- (i) Union of India Vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another 2008(116) FLR 1046.
- (ii) Union of India & others Vs. Basant Lal & others 1992 SCC (L&S) 611.
- (iii) L. Robert D'Souza Vs. Executive Engineer, Southern Railway & another 1982 SCC (L&S) 124.
- (iv) N. Balakrishnan Vs. M. Krishnamurthy ACJ 1998 1347 SC.
- (v) Kuldeep Singh Vs. GM, Instrument Design Development and Facilities Centre & another 2011 (128) FLR 121.
- (vi) Din Mohammed (Dead) by LRs. Vs. Union of India & others 2002 (92) FLR 1216.
- (vii) The Union of India & another Vs. Girja Shankar & others 2003 (96) FLR 1094.

10. In rebuttal, the authorized representative of the management has contended that the workman has been project casual labour in construction unit and worked with intermittent gap and he was granted temporary status as per Railway Board's letter dated 01.06.84. It has been submitted that the Railway Board vide its letter dated 11.09.86 modified the date of temporary status to the workmen in view of decision given by Hon'ble Supreme Court in *Indra Pal Yadav case (supra)*. The management has contended that the workman was not entitled for grant of temporary status after completion of 120 days continuous service since he was engaged as project casual labour and as per existing Railway Rules, 360 days' continuous services is required for grant of temporary status to a project casual labour. The authorized representative of the management has also contended that the workman has turned up after lapse of more than 20 years and his cause is not tenable in the eye of law being time barred. The management has relied on *Inder Pal Yadav & others Vs. Union of India (1985) 2 SCC 648*.

11 I have given my thoughtful consideration to the rival submissions of the learned authorized representatives of the parties and scanned entire evidence on record in light thereto.

12 The workman has come up with a case that he has been engaged as casual labour in the Construction Unit of the Dy. Chief Engineer (Construction), Northern Railway, Lucknow and he was entitled for grant of temporary status on completion of 120 days of service under P.S. N. 7850, Master Circular 48/92 and Rule 2304, 2501 and 2511 of Indian Railway Establishment Manual; but the management

granted him temporary status after five years' of their appointment, amounting to unfair labour practice. The workman's union has not filed any documentary evidence in support of their case; rather it has pleaded that the same is in power and possession of the Railways.

13 The management of the Northern Railways, rebutting the claim of the workman's union has come up with a clear cut case that the workman had been engaged as Project Casual Labour and accordingly, he was entitled for grant of temporary status on completion of 360 days continuous service; and accordingly, he was granted temporary status. Later on with the decision of Hon'ble Apex Court in *Inder Pal Yadav case (supra)*, the date of grant of temporary status was modified vide Railway Board's letter dated 11.09.86 whereby the workmen was given temporary status from previous date. The management has also stressed upon the factum of delay in raising the present industrial dispute after lapse of more than 20 years. The authorized representative of the management has pointed out that the workman is working with the railways for decades; but neither he preferred any representation, on the issue; nor moved to the court for redressal of his grievances. It is also stressed by the management that the workman has raised the present industrial dispute at a highly belated stage without any explanation to the delay. It has also been argued that though there is no limitation in the I.D. Act, 1947; but the same should not be condoned for the want of any explanation from the workman's union. He has also submitted that the Hon'ble Apex Court in number of its verdicts has observed that Courts should exercise their discretion, judiciously, while condoning the delay.

14 The workman's union has adduced evidence of the workman who stated in his cross-examination that he had been granted temporary status w.e.f. 1.1.84. The workman admitted the photocopy of service record and casual labour card, filed by the management, from paper No. M-9 to 9/7.

15 The workman has not filed any documentary proof in support of their claim but has relied on the photocopy of the service record and casual labour card of the workman, filed by the management. The service record of the workman shows the entry regarding grant of temporary status to the workman of different dates and there after grant of revised temporary status from different dates as per Railway Board's circular dated 11.9.86. The photocopy of the casual labour card, filed by the management has details regarding working of the workman with Permanent Way Inspector (Construction) at different-different stations.

Thus, both the parties have relied on the same set of documents in support of their different stands.

16. After going through the rival pleadings of the parties and documentary and oral evidence relied upon by the parties the bone of contention is as to whether the workman was Project casual labour or just casual labour engaged in the railway administration. Had they been Project Casual Labour then the action of the management was right and if they were casual labour on the rolls of railways then they ought to have been granted temporary status on completion of 120 days continuous service.

The burden that lied upon the workman's union was to come with the evidence that the workman was engaged as casual labour and he completed 120 days continuous service on this particular date, making him entitled for grant of temporary status. Thus, it was for the workman's union to lead its evidence on two points firstly that the workman was engaged as Casual Labour and secondly that he completed 120 days' of continuous working on such and such date. But the workman failed to comply with the above requirement. As it relied on the documentary evidence i.e. casual labour card which was in power and possession of the management for working detail; but when the management filed the photocopy of the same then it neither calculated the 120 days' continuous working from it nor disputed its genuineness. This goes to uphold the stand taken by the management that the workman was Project Casual Labour and accordingly he was granted temporary status on completion of 360 days' of continuous working vide Railway Board's letter dated 01.06.84 and thereafter granted them revised temporary status from a back date vide letter dated 11.09.86 as per guidelines of Hon'ble Apex Court.

17. The workman has relied on *Union of India vs. Presiding Officer, CGIT-cum-Labour Court, Kanpur Nagar & another* which pertains to termination of services of a workman in violation of provisions of Section 25 F, G & H of the Act. However, the facts of the present case are entirely different; hence not applicable in the present case. The workman has also relied on *Union of India & others vs. Basant Lal & others* 1992 SCC (L&S) 611; wherein the Hon'ble Apex Court has held that a workman having completed 120 days of working becomes entitled for regularization as temporary worker and the Railway cannot deny them the temporary status on the ground that they had been appointed as casual labour on a project work and not on construction work on open line and as such they would acquire the temporary status only after completing 360 days of service. But in the present case the workman's union failed to specify the date when the different workmen completed 120 days' of continuous service, rendering them for grant of temporary status. The workman's union has also relied on *L. Robert D'Souza vs Executive Engineer, Southern Railway & another* 1982 SCC (L&S) 124 but the fact of the case law is entirely different from the present case hence not applicable. Likewise the facts of the case

law relied upon by the workman in the *Union of India & another vs. Girja Shankar & others* 2003 (96) FLR 1094, *Kuldeep Singh vs GM Instrument Design Development and Facilities Centre & another* 2011 (128) FLR 123 and *Din Mhammaed (Dead) by LRs. Vs. Union of India & others* 2002 (992) FLR 1216 are quite different from the facts of the present case hence not appreciable.

18. It is well settled that if a party challenges the legality of an action, the burden lies upon him to prove illegality of the action; and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case burden was on the workman's union to set out the grounds to challenge the validity of the action of the management in not granting the temporary status to the workman after completion of 120 days' of continuous working. For this the burden of proof was on the workman's union to come with the evidence, that the workman under dispute has been engaged by the management of Railways as casual labour and under Rules they were entitled for grant of temporary status from completion of 120 days services with the employers; but the workman's union has failed to discharge the burden that lied upon them. The workman's union made a pleading, to explain the reason why it is not in position to file any documentary evidence before this Tribunal, in their statement of claim to the effect that the relevant document in support of their claim i.e. Casual Labour Card is attached in their Service Book. The workman's union in its rejoinder required the management to produce Casual Labour Card in respect of the workman before this Tribunal, resultantly, the management filed photocopy of Casual Labour Card and Services Book in respect of the workman. The workman's union did not dispute the service details filed by the management i.e. Casual Labour Card and extracts of Service Book. Therefore, when the management has filed the photocopy of Casual Labour Card as desired by the workman's union then it was incumbent upon the workman's union to come forward and sort out the relevant extract of the Casual Labour Card, which bears working details i.e. working period and number of days, to show that the workman completed 120 days of continuous on such and such date and he was entitled for grant of temporary status from such date. But the workman has utterly failed to bring any evidence to the effect before this Tribunal that the workman was engaged as Casual Labour and that the workman was casual labour and it also failed to specify the date as to when the workman completed 120 days' of continuous working, making him eligible for grant of temporary status.

19. On the contrary, the management has come with a clear cut case that the workman was engaged as Project Casual Labour with Construction Unit. It is also contended by the learned authorized representative of opposite party that there are so many projects which go on with the

Construction Unit and the workmen were kept engaged in different Projects. It is also specifically pleaded and proved by the management that the workman was granted temporary status vide Railway Board's letter dated 01.06.84; but due to Supreme Court's direction in *Indra Pal Yadav Case* (supra), the Railway Board vide its letter dated 11.09.86, changed the date of grant of temporary status, as per modified policy and accordingly, reduced the date of Temporary Status through notice. The management has filed photocopy of Service Record in respect of workman, which bears entries regarding grant of temporary status to the workman vide letter dated 22/25.02.85.

20. The management has made a specific pleading to the effect that the claim of the workman's union is stale one and time barred as the union has preferred the case before this Tribunal after lapse of more than 20 years. The workman's union in rebuttal has submitted that there is no provision regarding limitation in the Industrial Disputes Act, 1947; hence their claim is maintainable.

In this regard the workman's union has relied on *N. Balakrishnan vs M. Krishnamurthy* 1998 ACJ 1347; wherein Hon'ble Apex Court while dealing with the matter delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion. But the workman's union has not given any explanation in its pleadings as to what prevented them to raise an industrial dispute at an early state. However, in the evidence it has been stated that the workman/union wrote many letters to the opposite parties and the same are pending with them; although no copy of such letter/representation finds its reference either on record or annexure with the affidavit. Moreover, the management witness vide para 9 of his affidavit has denied of submissions of any such application by the workmen.

In *Chennai Metropolitan Water Supply and Sewerage Board & others vs. T.T. Murali Babu* 2014 (141) FLR 772, Honble Apex Court has observed as under:

"The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, "procrastination

is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years' delay in approaching the Court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification. "

Further, in *Dr. Jawahar Lal Rohatgi Memorial Eye Hospital vs. State of U.P. & others* 2013 (138) FLR 11 Hon'ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State government to refer against order of termination dated 26.6.1982 being old and stale case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon'ble High Court observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act.

Thus, from the face of record it is crystal clear the workman did not bother to approach the management or any legal forum for redressal of his grievances for more than 20 years; and the explanation forwarded by the workman's union before this Tribunal is insufficient.

21. Hence, from the facts and circumstances of the case and law cited hereinabove; I am of considered opinion that the action of the management of North Central Railway, Allahabad/Kanpur in not giving temporary status to the workman, Sri Radhey Shyam, T. No. 175, from the alleged date of completion of 120 days of service is neither illegal nor unjustified. Accordingly, I come to the conclusion that the workman's union is not entitled to any relief.

22. The reference under adjudication is answered accordingly.

23 Award as above.

LUCKNOW, RAKESH KUMAR, Presiding Officer
29th December, 2015

नई दिल्ली, 11 जनवरी, 2016

का.आ. 103.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर मध्य रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 15/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था 1

[सं. एल-41012/53/2008-आईआर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, 11th January, 2016

S.O. 103.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.15/2009) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Uttar Madhya Railway and their workman, received by the Central Government on 11/01/2016.

[No.L-41012/53/2008-IR(B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT

RAKESH KUMAR, Presiding Officer

I.D. No 15/2009

RefNo.L-41012/53/2008-IR(B-I) dated 25.05.2009

BETWEEN

Sri Rama Shankar Sharma,
281/388 Mill Road,
Mavaiya
Lucknow-4

AND

Sr. Divisional Mechanical Engineer (C&W)
Uttar Madhya Railway, O/o DRM
Uttar Madhya Railway,
Lucknow (U.P.)

AWARD

1. By Order No. L-41012/53/2008-IR(B-I) dated 25.05.2009 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Sri Rama Shankar Sharma, Mill Road, Mavaiya, Lucknow-4 and the Sr. Divisional Mechanical Engineer (C&W) Uttar Madhya Railway, O/o DRM, Lucknow for adjudication.

2. The reference under adjudication is:

“Whether the action of the management of Uttar Madhya Railway, Lucknow in not cancelling their order no. 525/E/TX/R.S.Sharma/em-ii/80 dated 16.3.1981 and not giving benefit of pension and wages to Sri R.S. Sharma is legal and justified? If not, to what relief the workman concerned is entitled to?”

3. The workman in his claim statement W-3, has stated in brief that he was appointed on 01.12.1951, and was promoted in 1959, to the post of Train Examiner, and

had been working continuously till 17.08.1977, during the service he has been following the directions of the senior officers, and never abstained from duty unauthorizedly. It has further been stated that the applicant during his service, got ill, and suddenly on 18.08.1977 in the mid night his condition became grave, his family members consulted Medical Practitioner for his treatment, opinion and the copy of sick memo was provided on 19.08.1977 which was sent to Chief Train Examiner, NR, and from time to time the workman sent information regarding his sickness to the concerned persons.

4. The workman has asserted that on being fit to resume duty, he reported in the office alongwith his fitness memo on 19.04.1980, then he was referred to Railway Doctor for his physical examination, the Railway Doctor found him medically fit, and after examination the fitness memo was provided to him and he was transferred to Tundla where he took charge on 20.04.1980. The workman has alleged that an illegal charge sheet was given to him in July 1980 wherein fact of his unauthorised absence w.e.f. 19.08.1977 to 19.04.1980 was wrongly mentioned while he was ill during the said period and information was duly sent, the charge was regarding so called unauthorized absence and it was not in accordance with Rules, so application dated 28.08.1980, 14.09.1980 and 16.01.1981 were sent to the disciplinary authority by the applicant seeking necessary documents but the same were not provided to him, the management has violated the principle of natural justice, Railway Rules and legal provision of I.D. Act., as well. Unfair labour practice was adopted by the opposite party.

5. It has been further stated in the claim statement that on 16.01.1981, the enquiry officer asked only five questions, no question was sought from any witness, neither opportunity was provided to the workman to cross examine the witness or to adduce in the defence, the enquiry was concluded against railway rules and principle of natural justice, and the enquiry report was sent on 19.01.1980, consequently the management passed the punishment order on 16.03.1981 whereby his services were terminated. The workman has alleged that no show cause notice was issued to him before passing the impugned penalty order dated 16.03.1981, the appeal moved by the workman against the aforesaid order is still pending, several application and reminders were sent by the workman which have not been disposed yet. The workman has prayed to set aside the above mentioned order dated 16.03.1981, and for payment of his salary pension and other post retiral dues.

6. The management in its written statement M-10, has denied the allegations levelled in the claim statement. The opposite party has stated that the present case is highly belated and time barred, in the light of the decision of Hon'ble Apex Court as well. The management has emphasized as per Railway Rules 1968, the period of

preservation of record is only 10 years in the present dispute, the enquiry report cannot be questioned by the workman after the lapse of more than 30 years. The management has stated that the Railway administration has taken action as per rules, it has been admitted by the workman that he himself had appeared in the enquiry proceeding so there was no violation of natural justice, the enquiry was fair and proper, the order of removal from service was taken by the competent authority vide the said order dated 16.03.1981, this order was not challenged by the workman during the period of 30 years so it has attained finality. The management has requested to reject the claim statement.

7. Preliminary issue regarding fairness etc. of domestic enquiry has been decided by the then hon'ble Presiding Officer/Judge vide order dated 09.06.2014, in favour of the management.

8. The workman filed rejoinder, reiterating his contentions, already made in the statement of claim.

9. Following preliminary issues were framed at the request of the parties vide order dated 09.01.2012:

1. Whether the domestic enquiry was fair and proper?

After framing of preliminary issues the parties were called upon to adduce its evidence and forward their oral submissions regarding validity of the inquiry proceedings.

10. After hearing the parties this Tribunal disposed of the preliminary issue No. 1 in favour of the management with following observations:

“The disciplinary enquiry was conducted in accordance with the principles of natural justice and the workman was afforded all reasonable opportunity to defend himself. As such, preliminary issue No. 01 is decided in favour of the management. The parties are called upon to forward their argument regarding quantum of punishment vide impugned order dated 16.03.81 on 20.06.2014”

Accordingly, the authorized representatives of the parties argued their respective cases on the issue of quantum of punishment.

11. I have given my thoughtful consideration to the rival submissions of the authorized representatives, pleadings of the parties and entire evidence adduced by the either parties.

12. The case of the workman is that he was appointed with opposite party on 01.12.1951 and worked continuously up to 17.08.1977. He has stated that he fell ill at the mid night of 18.08.77, the information of which was sent to the opposite party on 19.08.77 and when he got well, he appeared in the office of opposite party with fitness memo

on 19.04.80. The management referred him to the Railway doctor for medical examination, who declared him fit vide fitness memo date 02.04.80, thereafter, the management allowed him to join and he was transferred to Tundla; whereupon he joined on 20.4.80. The workman has come up with the case that after joining, the management of railways, illegally issued charge sheet dated July, 80 for unauthorized absence from 19.08.77 to 19.04.80 and after conducting disciplinary inquiry, removed him from services vide penalty order dated 16.30.81; however the appeal against said penalty order is still pending at the end of opposite parties.

13. Per contra, it is the case of the management that the workman had been punished with order of removal from services vide order dated 16.03.81, passed by the Competent Authority under Rules. It has contended that the workman has come up with a stale case, which is highly belated one after the lapse of 30 years; and the management has weeded out the documents relating to the official inquiry as the preservation time of the records provided under Rules is 10 years. The management has defended the inquiry and order of removal and has submitted that the workman did not challenge the same nowhere; and accordingly has become final.

14. Having gone through rival pleadings and submission of the parties it comes out that the workman who was an employee under the opposite party had been removed vide order dated 16.03.1981 for alleged unauthorized absence from duty w.e.f. 19.08.77 to 19.04.80. The management has defended its action but has shown its inability to produce any documentary evidence for the reasons that the case is highly belated one. However, it is noteworthy to mention here that the management has not filed any extract of the Weeding Register to substantiate its version that the records relating to the workman has been weeded out. Also, the Rule position referred by the management is relating to the preservation of Disciplinary Proceedings which provides that “an authenticated copy of the order regarding imposition of penalty or warning being placed in the personal file and a suitable entry being made in the appropriate Service Record. Thus, if it is taken that the records relating to the disciplinary proceedings have been weeded out under Rules even then the management was required to rebut the pleadings of the workman by filing the copy of personal file/service records in respect of the workman; but it failed to do so.

The workman has submitted that on returning from his absence, which was due to his illness, the management referred him for medical examination by the Railway doctor, who declared him fit; and accordingly, the management allowed him to join the duties and transferred him to new place and thereafter served upon a charge sheet for unauthorized absence from 19.7.78 to 19.3.80.

The Inquiry Officer in his findings has observed that the workman failed to give any solid proof of such long absence and failed to inform the office. The Inquiry Officer in his report has further observed that he checked his records i.e. absentee list, attendance register and found no unauthorized absence during the year 1980 to 1981; this goes to show that the workman was not a habitual absentee.

15 The workman has contended that the punishment laid down by the management is disproportionate as it is in excess to the actual misconduct committed by the workman. Hon'ble Apex Court in *State of Punjab vs. Dr. P.L. Singia* 2009 (121) FLR 770 (SC), dealing with unauthorized absence, has stated thus:

“Unauthorized absence (or overstaying leave), is an act of indiscipline. Wherever there is a unauthorized absence by an employee, two courses are open to the employer. The first is to condone the unauthorized absence by accepting the explanation and sanctioning leave for the period of the unauthorized absence in which event the misconduct stood condoned. The second is to treat the unauthorized absence as a misconduct, hold an enquiry and impose a punishment for the misconduct.”

The court further, while dealing with the concept of punishment ruled as follows:

“Where the employee who is unauthorizedly absent does not report back to duty and offer any satisfactory explanation, or where the explanation offered by the employee is not satisfactory, the employer will take recourse to disciplinary action in regard to the unauthorized absence. Such disciplinary proceedings may lead to imposition of punishment ranging from a major penalty like dismissal or removal from service to a minor penalty like withholding of increments without cumulative effect. The extent of penalty will depend upon the nature of service, the position held by the employee, the period of absence and the cause/explanation for the absence.”

16. In *Chairman-cum-Managing Director, Coal India Limited and another vs. Mukul Kumar Choudhuri and others* 2009 (15) SSC 620, Hon'ble Apex Court, after analyzing the doctrine of proportionality at length, ruled thus:

“19. The doctrine of proportionality is, thus, well-recognized concept of judicial review in our jurisprudence. What is otherwise within the discretionary domain and sole power of the decision-maker to quantify punishment once the charge of misconduct stands proved, such discretionary power is exposed to judicial intervention if exercised in a manner which is out of proportion to the fault. Award

of punishment which is grossly in excess to the allegations cannot claim immunity and remains open for interference under limited scope of judicial review.

20. One of the tests to be applied while dealing with the question of quantum of punishment would be: would any reasonable employer have imposed such punishment in like circumstances? Obviously, a reasonable employer is expected to take into consideration measure, magnitude and degree of misconduct and all other relevant circumstances and exclude irrelevant matters before imposing punishment.

Hon'ble Apex Court in the above case directed for reinstatement of the delinquent for the proved charges of unauthorized absence for a period of more than six months, being the punishment of removal unduly harsh and grossly in excess to the allegations; but withheld the back wage by the way of punishment for proved misconduct of unauthorized absence. The Court observed as under:

“21. In a case like the present one where the misconduct of the delinquent was unauthorized absence from duty for six months but upon being charged of such misconduct, he fairly admitted his guilt and explained the reasons for his absence by stating that he did not have any intention nor desired to disobey the order of higher authority or violate any of the Company's rules and regulations but the reason was purely personal and beyond his control and, as a matter of fact, he sent his resignation which was not accepted, the order of removal cannot be held to be justified, since in our judgment, no reasonable employer would have imposed extreme punishment of removal in like circumstances. The punishment is not only unduly harsh but grossly in excess to the allegations.”

Hon'ble Allahabad High Court relying upon the decision of Hon'ble Apex Court in *Workman of F.T. & R.C. vs the Management* AIR 1973 SC 1227 in *U.P. Transport Corporation vs State of UP & others* 1978 (36) FLR 163 has observed as under:

“even if the Tribunal holds the inquiry to be proper and fair the Tribunal has the jurisdiction to award to the workman lesser punishment in lieu of discharge or dismissal as the circumstances may require. In this view of the law the first submission made by the learned counsel has no force and we hold that the Labour Court had the jurisdiction to award relief to the workman by awarding a lesser punishment.

In order to consider the second submission made by the learned counsel for the petitioner it is necessary to examine the scope of the power of the Labour Court as conferred on it under section 11-A of the Act. By this section wide powers have been conferred on the Labour Court, Tribunal or the National Tribunal, as the case may be, to set aside an order of discharge or dismissal and

directed reinstatement or to award a lesser punishment in lieu of discharge or dismissal.”

17 In the instant case the workman had admittedly been unauthorizedly absent from 19.7.78 to 19.3.80 without prior intimation to the high authorities and approval of the Competent Authority. The inquiry report has specifically mentioned that he had gone through the current records relating to the workman i.e. absentee list, attendance register etc. but did not find any instance of unauthorized absence in respect of the workman during the year 1980 and 1981, which amounts to sincerity on the part of the workman towards his duty, therefore the punishment imposed by the management upon the workman for one time absence, though considerably long, seems disproportionate and harsh, particularly when the workman had been allowed to join the duties on declaring fit by the railway doctor.

18 The management has opposed the claim of the workman on the issue of delay. On the issue of delay the workman has tried to explain his delay by filing the copies of the various representations moved before various authorities, including Hon'ble President's Secretariat. The opposite party has disputed its genuineness through pleadings. The workman has submitted that the reference was made by the appropriate Government after considering all aspects, including delay, which was under consideration before the Regional Labour Commissioner (Central). He has also contended that there is no limitation providing in the Industrial Disputes Act, 1947.

Hon'ble Allahabad High Court in *The Chief General Manager, State Bank of India, Chief Office, Lucknow vs. B.C. Verma & another* 1994 LLR 29; while considering the question as to whether inaction or delay in raising industrial dispute by the workman can be condoned; Hon'ble High Court observed as under:

“In the present case, Section 10(1) may be read along with Section 10 (5). Both the subsections read together lead to conclusion that ‘at any time’ the Reference can be made in the exercise of the administrative power by the Central Government provided there exists an industrial dispute or the same is apprehended. He use of expression “at any time’ in both the sub-sections clearly indicates that legislature never intended any limitation to be imposed for making reference.”

In the present case, admittedly there is a delay of many long years but the workman has tried to explain the same by filing copies of various representations he moved before the railway administration as well as before the Secretariat of Hon'ble President of India, which was forwarded to the Railway Board lastly on 19.06.1996; but the management has disputed their genuineness. Hon'ble Apex Court in *Ajaib Singh vs. Sirhind Co-operative Marketing-*

cum-Processing Services Society Ltd. & another 1999 LAB IC 1435 where there was admitted delay of seven years has held that the Court can mould relief by refusing back wages or directing payment of part of back wages.

Thus, although there is an inordinate delay since the cause of action arose in the year 1981; but the workman kept on representing the same before various authorities, lastly in the year 1996.

19 Therefore, under the facts and the circumstances of the case and considering the law cited hereinabove, it comes out that the punishment, imposed by the management upon the workman for proved/admitted unauthorized one time absence from 19.07.78 to 19.03.80 is not only unduly harsh but grossly in excess to the allegations made in the charge sheet. Also, there is neither any allegation, in the charge sheet, that the workman was a habitual absentee nor there is any evidence on the record to the effect; whereas on the contrary the Inquiry Office in his report has found that no instance of unauthorized absence of the workman in the year 1980 and 1981. Therefore, the punishment order dated 16.03.1981 is set aside in exercise of discretion conferred upon this Tribunal under proviso 11-A of the Act; and the management is directed to reinstate the workman, Ram Shankar Sharma, with all consequential benefits, including continuity in service etc., less back wages, by the way of punishment for his unauthorized absence and inordinate delay in raising the present industrial dispute.

However, from perusal of records it is evident that since the workman has already attained the age of superannuation, therefore, at this juncture he would be entitled for all retiral benefits only under Rules, from the date of his superannuation, which be paid to the workman within 08 weeks of publication of the award, failing which; the amount due shall carry simple interest @ 6% per annum. The reference is adjudicated accordingly.

20 Award as above.

Lucknow, RAKESH KUMAR, Presiding Officer
28th December, 2015

नई दिल्ली, 11 जनवरी, 2016

का.आ. 104.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर पूर्व रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 68/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल-41011/89/2014-आईआर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 104.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/2014) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workman, received by the Central Government on 11/01/2016.

[No. L-41011/89/2014-IR(B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL - CUM-LABOUR COURT

LUCKNOW

PRESENT

RAKESH KUMAR, Presiding Officer

I.D. No. 68/2014

Ref. No. L-41011/89/2014-IR(B-I) dated: 18.11.2014

BETWEEN

Anchal Sangthan Secretary

Rail Sevak Sangh

C/o Shri D.P. Awasthi

49, Tilak Nagar

Lucknow.

(Espousing cause of Sri Krishna Kumar)

AND

1. Sr. Divisional Personnel Officer

North Eastern Railway

DRM Office, Ashok Marg

Lucknow.

2. The Chief Medical Superintendent

North Eastern Railway

Gonda (UP)

AWARD

1. By order No. L-41011/89/2014-IR(B-I) dated: 18.11.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sangthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री कृष्ण कुमार पाण्डेय पुत्र श्री प्रताप नारायण, प्वाइंटमैन को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 20.01.2015 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 19.06.2015.

5. On 19.06.2015, Shri D.P. Awasthi, Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-4, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I(I)/2 dated 29.10.2014 of the Railway Board. The management in letter M-4, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-4 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 12.12.2015 at National Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-4 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

“Since the relief claimed by the workman/union has been accepted by the O.P. hence further proceeding in this case may kindly be dropped in interest of justice.”

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same vide circular 2012/F(E)III/I(I)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman

concerned. The reference under adjudication is answered accordingly

9. Award as above.

Lucknow, RAKESH KUMAR, Presiding Officer
28th December, 2015

नई दिल्ली, 11 जनवरी, 2016

का.आ. 105.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उतर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 36/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल-41011/105/2010-आईआर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 105.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.36/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workman, received by the Central Government on 11/01/2016.

[No. L-41011/105/2010- IR (B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL— CUM-LABOUR COURT

LUCKNOW

PRESENT

RAKESH KUMAR, Presiding Officer

I.D. No. 36/2011

Ref. No. L-41011/105/2010-IR(B-I) dated: 14.03.2011

BETWEEN

Mandal Sangthan Mantri
Uttar Railway Karmchari Union
283/63 Kh, Garhi Kananora (Premwati Nagar)
PO – Manak Nagar
Lucknow – 16.
(Espousing cause of Sri Jintendra Singh)

AND

Senior Divisional Railway Manager (Personnel)
Northern Railway, Hazratganj
Lucknow.

AWARD

1. By order No. L-41011/105/2010-IR(B-I) dated: 14.03.2011 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Mandal Sangthan Mantri, Uttar Railway Karmchari Union, 283/63 Kh, Garhi Kananora (Premwati Nagar), PO – Manak Nagar, Lucknow and Senior Divisional Railway Manager (Personnel), Northern Railway, Hazratganj, Lucknow for adjudication to this CGIT-cum-Labour Court, Lucknow.

2. The reference under adjudication is:

WHETHER THE DEMAND OF THE UNION REGARDING PLACING SHRI JINTENDRA SINGH S/O RADHEY SHYAM, ASSISTANT LOCO PILOT, LOCO-SHED, LUCKNOW IN THE PENAL OF 1983-84 ABOVE HIS JUNIORS AND GRANT OF PAY BENEFITS ACCORDINGLY IS LEGAL AND JUSTIFIED? TO WHAT RELIEF THE UNION IS ENTITLED?"

3. The case of the workman's union, in brief, is that the workman was appointed as cleaner w.e.f. 12.01.1980 and worked as such till 03.09.1981 continuously, when he had been retrenched w.e.f. 04.09.1981 illegally. The workman challenged his retrenchment before CGIT-cum-Labour Court, Kanpur in I.D. No. 48/83 and 163/1983 and the Tribunal was pleased to reinstate the workman with back wages from the date of retrenchment vide their award dated 19.02.1987 and 25.11.1985. The management challenged the award of CGIT, Kanpur before Hon'ble High Court, which was rejected; likewise the SLP too before Hon'ble Apex Court was rejected; accordingly, the workman was reinstated on 03.08.1983. It is alleged that the management vide its order No. 220 E/1-5/Screening/ Loco dated 30.08.1991 regularized the workman on the post of Loco Cleaner; whereas it absorbed other junior workmen in the panel for the year 1983-84 on the basis of 120 days working up to 30.09.98, which is in violation to the provisions of Railway Rules. It is submitted by the workman's union that Shri Amarjeet Singh & Sri Abdul Aziz were also included in the panel for year 1992 but later on included in the panel of year 1983-84 on the orders of Hon'ble CAT, Lucknow. Likewise, other workmen viz. Sri Pratap Bahadur & Ahmad Ali, who were earlier included in panel for the year 1992 were included in the panel for year 83-84 as per order of this Tribunal. Accordingly, the workman's union has prayed that the name of the workman, be included in the panel of the year 83-84 which consequential benefits.

4. The management of the railways has filed its written statement, denying the claim of the workman's union and has contended that the workman's union has sought the relief placing the name of the workman in the panel of

year 1983-84, which is not permissible because of the seniority of other employees will be effected and they are not arrayed as party in present industrial dispute and if the relief is granted, several other workers may prefer the matter in courts since their seniority shall be affected. The management has specifically submitted that the industrial dispute has been referred after lapse of more than 25 years without any rhyme or reason or any sufficient explanation; and accordingly, the same is liable to be rejected on the point of limitation.

5. The workman's union has filed its rejoinder wherein apart from reiterating facts already mentioned in the statement claim has submitted that there is no limitation provided in the industrial disputes Act, 1947.

6. The parties filed documentary as well as oral evidence in support of their respective case and forwarded oral arguments.

7. Heard learned authorized representatives of the parties at length and perused entire evidence on record.

9. The authorized representative of the workman has contended that since the termination dated 04.09.81 has been held illegal and the workman had been reinstated with consequential benefits, therefore he is entitled for inclusion in the panel of year 1983-1984. He has relied upon:

- (i) *N. Balakrishnan vs. M. Krishnamurthy 1998 ACJ 1347.*

10. In rebuttal, the authorized representative of the management has contended that the workman was screened and rightly placed in the seniority panel vide order dated 30.08.1991. The management has vehemently contended that the workman is not entitled to be included in the panel for the year 1983-84, inasmuch as the present industrial dispute is time barred and the workman has raised this industrial dispute when he found that some other workmen got benefit from different Court/Tribunals. The management has relied on:

- (i) *M. Ramakotaiah & others vs. Union of India & others 2007 (6) AWC 6556 (SC).*

11. I have given my thoughtful consideration to the rival contentions of the learned authorized representatives of the parties and scanned the entire evidence available on record.

12. Admittedly, the workman had been terminated w.e.f. 04.09.1981 and his termination had been declared to be illegal and was reinstated with back wages by the CGIT-cum-Labour Court, Kanpur. Also, the Hon'ble High Court in writ petition, filed by the management of railways, upheld the award regarding reinstatement and the management in compliance of award reinstated the workman and paid him back wages. However, the management's contention over the issue referred to this Tribunal is, that the workman was screened and was rightly placed in the seniority panel for

1991 and he is not entitled for inclusion in the panel for year 1983 as he was not in service at that point of time; more so because the present industrial dispute has been raised after lapse of more than 25 years.

13. Thus, the question to be adjudicated is as to whether the workman is entitled to be included in the seniority panel of 83-84, which was denied to him, consequent upon his termination in the said year? It is admitted fact that the workman was not in service due to illegal termination in the relevant year 1983, when the seniority panel was drawn and his name was not considered. The termination of the workman was quashed by the CGIT-cum-Labour Court, Kanpur and in compliance thereof the management reinstated the workman, treating the termination as non-est and paid back wages in compliance of the order of the Hon'ble High Court.

As per award of the CGIT-cum-Labour Court, Kanpur, the reinstatement order was not qualified one to be given effect to the extent of monetary benefits only. As per settled procedure, logically and legally reinstatement required grant of all service benefits including seniority as if the termination had not taken place. The management complied with the order of reinstatement without giving seniority and released monetary benefits to the workman. On the quashing of termination order, it has to be assumed that the workman was never been terminated and continued to be in service notionally. The effect of the reinstatement is that the workman would be deemed in service on the last post held on the date of termination. Accordingly, he is entitled for preference over his juniors and to be included in the seniority panel for the year 1983-1984.

14. The management of the railways has come up with a contention that the present industrial dispute is time barred as it has been raised after lapse of more than 25 years. The workman's witness during his cross-examination stated that he moved an application before DRM; but has not filed its copy before this Tribunal. He further, stated that when the management did not act upon his repeated representations, then he raised the present industrial dispute. The authorized representative has contended that the workman has not given any reliable explanation for inordinate delay of 25 years; rather he turned up when the other got successful. He stressed that the order of the Hon'ble CAT, Lucknow Bench, Lucknow in respect of Amarjeet Singh was delivered on 26.04.1993; but the workman has raised present industrial dispute in 2011, without any explanation.

15. The management has relied upon *N. Balakrishnan vs M. Krishnamurthy 1998 ACJ 1347*; wherein Hon'ble Apex Court while dealing with the matter of delay has observed that length of delay does not matter, acceptability of the explanation is the only criterion.

In Chennai Metropolitan Water Supply and Sewerage Board & others vs T.T. Murali Babu 2014

(141) *FLR 772*, Honble Apex Court has observed as under:

“The Court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a Constitutional Court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the Court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring a hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the Court, yet the writ Court chose not to address the same. It is the duty of the Court to scrutinize whether such enormous delay is to be ignored without any justification.”

Further, in *Dr. Jawahar Lal Rohatgi Memorial Eye Hospital vs State of U.P. & others 2013 (138) FLR 11* Hon’ble Allahabad High Court upholding the action of the State Government in denying the making reference of case after 22 years held that it is not expedient for State government to refer against order of termination dated 26.6.1982 being old and stale case, where the workman filed an application raising industrial dispute after 22 years in 2004. Hon’ble High Court observed that there is nothing to indicate as to why the workman could not approach the authority under the ID Act. On the issue of delay the workman has tried to explain his delay by pleading that he kept on making representations before the authorities; but in the absence of any copy thereof his contention cannot be relied upon. There is no other explanation about delay.

Thus, from the face of record it is crystal clear that the workman did not bother to approach the management or any legal forum for redressal of his grievances for more than 20 years; and he approached this Tribunal when he come to know about favourable order of courts in similar nature of cases, which points out towards opportunism of the workman. Moreover, the explanation forwarded by the workman’s union before this Tribunal is insufficient.

16. In the present case, admittedly there is delay of approximately 20 years as he was screened vide order dated 30.08.1991. The workman’s union failed to give any logical explanation for this inordinate delay of 20 years. Hon’ble Apex Court in *Ajaib Singh vs. Sirhind Co-operative Marketing-cum-Processing Services Society Ltd. & another 1999 LAB IC 1435* where there was admitted delay

of seven years has held that the Court can mould relief by refusing back wages or directing payment of part of back wages.

17. Thus, from the facts and circumstances of the case and the case laws cited hereinabove, I am of considered opinion that the action of the management of Railway in not including the name of the workman in the panel for year 83-84 was illegal and unjustified. Accordingly, I come to the conclusion that the workman is entitled for placement in the panel of 1983-1984 above his juniors, subject to his suitability under Rules. He shall be entitled to services benefits under Rules; however, he would be liable for payment of only 1/3rd of back wages, in view of delay in raising the present industrial dispute.

18. The reference under adjudication is answered accordingly.

19. Award as above.

LUCKNOW, RAKESH KUMAR, Presiding Officer
31st December, 2015

नई दिल्ली, 11 जनवरी, 2016

का.आ. 106.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 69/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल-41011/90/2014-आई आर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 106.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 69/2014) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workman, received by the Central Government on 11/01/2016.

[No. L-41011/90/2014- IR (B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—
CUM-LABOUR COURT**

LUCKNOW

PRESENT

RAKESH KUMAR, Presiding Officer

I.D. No. 69/2014

Ref. No. L-41011/90/2014-IR(B-I) dated: 18.11.2014

BETWEEN

Anchal Sangthan Secretary

Rail Sevak Sangh

C/o Shri D.P. Awasthi

49, Tilak Nagar

Lucknow.

(Espousing cause of Sri Raja Ram)

AND

1. Sr. Divisional Personnel Officer

North Eastern Railway

DRM Office, Ashok Marg

Lucknow.

2. The Chief Medical Superintendent

North Eastern Railway

Gonda (UP)

AWARD

1. By order No. L-41011/90/2014-IR(B-I) dated: 18.11.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sangthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

“क्या पूर्वोक्त रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री राजा राम पुत्र श्री मथुरा प्रसाद, बौक्सपोर्टर को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?”

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 20.01.2015 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 19.06.2015.

5. On 19.06.2015, Shri D.P. Awasthi, Secretary of the workman's union was present whereas the opposite parties

were represented by Shri Upendera Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-4, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I(I)/2 dated 29.10.2014 of the Railway Board. The management in letter M-4, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-4 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 12.12.2015 at National Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-4 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

“Since the relief claimed by the workman/union has been accepted by the O.P. hence further proceeding in this case may kindly be dropped in interest of justice.”

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same vide circular 2012/F(E)III/I(I)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly

9. Award as above.

Lucknow, RAKESH KUMAR, Presiding Officer
28th December, 2015

नई दिल्ली, 11 जनवरी, 2016

का.आ. 107.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार दक्षिण रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 66/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल-41012/08/2013-आई आर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 107.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref.66/2013) of the Cent.Govt.Indus.Tribunal-cum-Labour Court Chennai as shown in the Annexure, in the industrial dispute between the management of Southern Railway and their workman, received by the Central Government on 11/01/2016.

[No. L-41012/08/2013- IR(B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL- CUM - LABOUR COURT,
CHENNAI**

Monday, the 21st December, 2015

**Present : K.P.PRASANNA KUMARI,
Presiding Officer**

Industrial Dispute No. 66/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Southern Railway and their workman)

BETWEEN

Sri D. Emarose : 1st Party/Petitioner

AND

The General Manager (Law) : 2nd Party/Respondent
Southern Railway
Moore Market Complex
Chennai-600003

Appearance:

For the 1st Party/Petitioner : Sri S. Raghupathi, Advocate

For the 2nd Party/Respondent : M/s K.V. Sanjeev Kumar,
Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-41012/08/2013-IR (B.I) dated 27.05.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

“Whether the action of the management of Southern Railways in removing Sri D. Emarose, Ex. Leave Reserves Porter is justified? If not, to what relief the concerned workman is entitled?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 66/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner was recruited by the Respondent as Casual Labour on 29.11.1978. On completion of 120 days he was granted temporary status against permanent vacancy and was working satisfactorily. On 06.09.1996, a Show Cause Notice was issued to the petitioner on the allegation of impersonation. An enquiry was conducted against the petitioner. But it was not done in a fair and proper manner. Based on the report of the enquiry penalty of removal from service was imposed on the petitioner. The petitioner approached the Administrative Tribunal against the said order. The Tribunal set aside the order and directed the Respondent to reinstate the petitioner in service. The Respondent filed Writ Petition before the Hon'ble High Court of Madras against the said order and the High Court directed the Respondent to conduct denovo enquiry and finalize the issue within three months. The Respondent nominated an Enquiry Officer for conducting enquiry. The Enquiry Officer acted flouting the statutory rules. The Appointing Authority did not issue any show cause notice to the petitioner before imposing the major penalty of removal of the petitioner from service on the basis of the enquiry. An order may be passed setting aside the penalty of removal of the petitioner from service and extend all consequential benefits to the petitioner.

4. The Respondent has filed Counter Statement contending as below:

The petitioner claiming to be Emarose was known by the name G. Baskaran and secured an employment as Khalasi by impersonating himself as D. Emarose. This came to light pursuant to a written complaint received from D. Emarose alleging that the petitioner obtained the job by impersonation. On investigation it came to light that the petitioner who obtained job as Leave Reserve Porter at Chennai Central in the name of D. Emarose is actually not Emarose and not son of Damodaran Mudaliar as claimed by him. The petitioner was found to be one G. Baskaran, S/o Ganesan. He had secured employment with the assistance of a retired employee, Damodaran Mudaliar. A charge sheet was issued to the petitioner and an enquiry was conducted against him. The Enquiry Officer submitted report against the petitioner and the Disciplinary Authority imposed punishment of termination from service on the petitioner, based on the report of the Enquiry Officer. The petitioner challenged the order before the Administrative Tribunal and the Tribunal set aside the order of termination and directed reinstatement of the petitioner in service and conduct of a fresh enquiry. The Respondent challenged this order by way of Writ Petition and by order dated 09.04.2009 the Hon'ble High Court confirmed part of the order passed by the Tribunal wherein the Tribunal ordered further enquiry. However, the order of reinstatement directed by the Tribunal was set aside by the High Court. In compliance

to the order of the High Court an enquiry was conducted. The Enquiry Officer held that the charges against the petitioner is proved and that he had contravened Rule-3(i)(i) & (iii) of the Railway Service (Conduct) Rules, 1966. A copy of the enquiry report was served on the petitioner. The Disciplinary Authority who considered the enquiry report and the written statement of the petitioner held that the petitioner has taken up employment in the name of Emarose and that the details given by him in the Service Register are not of his. The penalty of dismissal from service was imposed on the petitioner on 05.03.2010. The order of the Disciplinary Authority was confirmed by the Appellate Authority as well as the Revising Authority. The petitioner is not entitled to any relief.

5. Since the petitioner had raised a preliminary objection that domestic enquiry against him was conducted against the principles of natural justice, this was considered as a Preliminary Issue. By order dated 22.05.2015 this Tribunal has found that the enquiry was conducted in a fair and proper manner.

6. On merits Ext.W1 to Ext.W12 were marked on the side of the petitioner and Ext.M1 to Ext.M7 were marked on the side of the Respondent. Both sides did not adduce any oral evidence.

7. The points for consideration are:

- (i) Whether the action of the Respondent in removing the petitioner from service is justified?
- (ii) What if any is the relief to which the petitioner is entitled?

The Points

8. The petitioner had been recruited as Casual Labour by the Respondent in 1978. After some time he was given temporary status against permanent vacancy. In the year 1996 a charge memo was issued to the petitioner alleging that he is actually not what he represented himself to be for obtaining job but he has got the job by impersonating the real person by name D. Emarose. An investigation was conducted and he was found to be one Baskaran, S/o Ganesan and not D. Emarose which he represented himself to be. A charge sheet was issued to him, an enquiry was conducted and based on the enquiry officer's report against him he was dismissed from service. He challenged the dismissal before the Administrative Tribunal and the Tribunal found that the domestic enquiry was not conducted in a fair and proper manner. The Tribunal directed that the petitioner should be reinstated in service and a fresh enquiry should be conducted. The Respondent challenged this order before the High Court and the Hon'ble High Court reversed that part of the order directing that the petitioner should be reinstated in service. However, the order of the Tribunal that a denovo enquiry is to be conducted was upheld by the High Court. Ext.W2 is the report of First Enquiry Officer. Ext.W3 is the order of the

Administrative Tribunal and Ext.W4 is the order of the Hon'ble High Court of Madras in the Writ Petition challenging the order of the Administrative Tribunal.

9. The Hon'ble High Court while ordering denovo enquiry had prescribed a time limit. The Enquiry Officer nominated by the Respondent in compliance with the order of the High Court conducted enquiry within the period and submitted report. Ext.W5 is the said report. Ext.W6 is the order of the Disciplinary Authority removing the petitioner from service based on Ext.W5 report. Ext.W7 is the order in the appeal filed by the petitioner and Ext.W9 is the order in revision.

10. Though the report of the Enquiry Officer is produced, the documents pertaining to the enquiry including evidence of witnesses are not produced by the petitioner. However, a perusal of the Enquiry Officer's report and the subsequent orders confirming the order of termination of the petitioner from service are sufficient to come to a conclusion regarding the issue involved.

11. As seen from Ext.W5 the report of the Enquiry Officer, the charge memo issued to the petitioner is as below:

Sri G. Baskaran, S/o Sri N.P. Ganesan impersonated as Sri Emarose, S/o A.S. Damodaran Mudaliar (Retired Senior Parcel Clerk/MIS) and secured employment in Southern Railway and is now working as LRP/MIS

Thus the person working in the name of Sri D. Emarose contravened Rule-3(i)(i) & (iii) of Railway Service (Conduct) Rules, 1966.

12. By the time the new Enquiry Officer started enquiry, out of the witnesses examined in the earlier enquiry proceedings, the person by name Emarose, S/o Damodaran Mudaliar who is said to have been impersonated by the petitioner was not available. Another witness examined earlier was also not available. Though the statement of Damodaran Mudaliar was recorded by the Investigating Officer he was not examined in the earlier enquiry proceedings. An attempt to examine him in the later enquiry proceedings proved futile as he was dead by that time. The only witness actually examined by the Enquiry Officer is one Rajamohan, Retired SPO. The Enquiry Officer seems to have relied upon the evidence of the earlier witnesses also to come to a conclusion regarding the issue involved. In fact this could not be relied upon as the earlier enquiry proceedings was already set aside.

13. SW3 Rajamohan examined before the Enquiry Officer is the one who had conducted investigation which is seen named as confronted enquiry in the enquiry proceedings. Ext.S7 is the findings of the enquiry in which it is found that Baskaran, S/o Ganesan got himself appointed in the Railways as Emarose, S/o Damodaran.

14. The clinching evidence available against the petitioner in the enquiry proceedings is his own written

defence brief. Though the defence brief is not produced by the petitioner probably because of the damaging consequence, the gist of the brief is available in the report of the Enquiry Officer. The Enquiry Officer has stated that the defence brief contained an admission on the part of the petitioner that he was son of the brother of Damodaran Mudaliar whose son is the real Emarose. As seen from the defence brief, Damodaran Mudaliar was upset that his son rejected the offer of appointment with the Railways and wanted the petitioner to join the Railways in the name of his Son, Emarose. The defence brief proceeds to state that the petitioner had the eligibility requirements to be absorbed as Casual Labour in the Railways even without Damodaran Mudaliar's help and therefore he had not acted as somebody else but only took up the assignment in the name of Emarose to satisfy Damodaran Mudaliar. Thus the very defence brief submitted on behalf of the petitioner before the Enquiry Officer shows that he is actually not D. Emarose, the person he himself projected as one in the Respondent establishment, but someone else.

15. The counsel for the petitioner has submitted a written argument on behalf of the petitioner. The written argument evades the issue whether the petitioner is Emarose himself or is someone else who had pretended to be Emarose. The written argument does not refer to the defence brief submitted before the Enquiry Officer also. What is stated in the written argument is that the petitioner has applied with his own signature and did not forge signature in the name of Emarose and so there was no question of impersonation of anybody already working in the Railways. According to the counsel this would show that there was no impersonation on the part of the petitioner.

16. The only charge against the petitioner is that he projected himself as someone else for obtaining employment with the Respondent in contravention of Rule-3(i)(I) & (iii) of the Railway Service (Conduct) Rules, 1966. The very admission of the petitioner shows that he obtained job in the Railways in the name of another person. This is nothing but impersonation. For years and years he had been projecting himself as another person with the Respondent and had been drawing salary from the Respondent.

17. After the initial enquiry was set aside and a fresh enquiry was ordered, opportunity was available for the petitioner to prove that he is actually Emarose as projected by him. Not only that he did not put forth any evidence to this effect but admitted himself that he is someone else and not Emarose. The action of the petitioner in accepting job in the name of someone else is a gross misconduct calling for severe penalty. It was only proper on the part of the Respondent to impose the penalty of termination from service. The petitioner is not entitled to any relief.

In view of my discussion above, the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 21st December, 2015)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner	:	None
For the 2 nd Party/Management	:	None

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ext.W1		Service Register of the Petitioner
Ext.W2	28.02.1997	Finding of the Enquiry Officer Mr. S. Nagarajan
Ext.W3	10.01.2005	Order of Hon'ble CAT, Madras Bench in OA No. 429/2004
Ext.W4	09.04.2009	Order of Hon'ble Madras High Court, Madras in WP No. 22355/2005
Ext.W5	20.05.2009	Finding of the Enquiry Officer Mr. K. Moorthy
Ext.W6	05.03.2010	Penalty Advice issued by Respondent
Ext.W7	17.05.2010	Order of Respondent in Appeal
Ext.W8	22.06.2010	Revision Petition of Petitioner
Ext.W9	07.01.2011	Order of Respondent in revision
Ext.W10	25.06.2012	Order of Respondent
Ext.W11	-	Copy of details of procedure fixed for imposing major penalty in Part-IV of The Railway Servants (Discipline & Appeal) Rules, 1968
Ext.W12	-	Copy of Extract of Rule 25/3 of The Railway Servants (Discipline & Appeal) Rules, 1968

On the Management's side

Ex.No.	Date	Description
Ext.M1	29.11.1978	Service Register of the Petitioner
Ext.M2	23.02.1990	Railway Board Establishment No. 41/90
Ext.M3	11.10.1990	Railway Board Establishment No. 182/90
Ext.M4	28.02.1997	Enquiry Proceedings
Ext.M5	-	Rule No. 200(1) of Railways Establishment Manual and Rule 25(2) of Disciplinary Railways Rules, 1968
Ext.M6	10.01.2005	Order passed by Hon'ble CAT in OA No. 429 of 2004
Ext.M7	09.04.2009	Order passed in WP No. 22355 of 2005 passed by Hon'ble High Court of Madras

नई दिल्ली, 11 जनवरी, 2016

का.आ. 108.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पश्चिम रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 40/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल-41011/42/2014-आईआर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 108.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of North West Railway and their workman, received by the Central Government on 11/01/2016.

[No. L-41011/42/2014-IR (B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 40/2014

Reference No. L-41011/42/2014-IR(B-I)

dated: 13.5.2014

The Zonal Executive President

Uttar Paschim Railway Karmachari Sagh

8-A, DAV Collage, Staff Colony, Byavar Road,

Ajmer-305001

V/s

The Chief Works Manager

N.W. Railway

Jodhpur.

AWARD

19.11.2015

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“Whether the action of the management of Chief Works Manager, N.W. Railway, Jodhpur for not paying family pension, other retirement dues and

appointment under compassionate ground to Smt. Dhooli Devi Meghwal, W/o Late Shri Durga Ram, Ex. Painter as per Railway Board Rules is justified? If not, to what relief the workman is entitled?”

2. Pursuant to the receipt of the reference order, registered notices were issued to the parties as per the order of the tribunal dated 23.5.2014 fixing 9.7.2014 for filing statement of claim. On 9.7.2014 Smt. Dhuli Devi was present in person along with Sh. Kamlesh Kumar. Sh. Trilok Chand, Chief O.S., Establishment was present on behalf of opposite party. Adjournment was sought from the applicant side which was allowed fixing 15.9.2014 for statement of claim. In between 23.5.2014 & 9.7.2014, on 9.6.2014 a registered letter was received from the office of Chief Factory Manager, Carriage Workshop, North West Railway, Jodhpur in relation to the reference which was kept on record of the file. The content of the letter is an information regarding deceased Durgaram which indicates that he was not an employee of the railway & he did not die as railway employee hence, his wife Smt. Dhuli Devi is neither entitled for family pension nor appointment on compassionate ground.

3. On 15.9.2014 Sh. Rajendra Gupta, Advocate came in appearance on behalf of applicant alleging that he will submit statement of claim & authority on next date. On behalf of opposite party Chief Personnel Inspector, Railway, Md. Shams Kamar Ansari was present. Next date 24.11.2014 was fixed for filing statement of claim. On 24.11.2014 Sh. P.C.Saini, Zonal President, NWR Employees Union was present & asked for adjournment for filing statement of claim which was allowed fixing 16.2.2015 for filing statement of claim. Chief Personnel Inspector, Railway, Md. Shams Kamar Ansari was present on behalf of opposite party. On 16.2.2015 presiding officer of the tribunal was on leave. Sh. Rajendra Gupta, Advocate for applicant & Chief Personnel Inspector, Railway, Md. Shams Kamar Ansari was present on behalf of opposite party. Next date 6.5.2015 was fixed for filing statement of claim as the same was not filed on 16.2.2015. On 6.5.2015 Sh. Rajendra Gupta, Advocate for applicant came in appearance & alleged to file statement of claim & authority on behalf of applicant on next date 17.8.2015. Sh. Kailash Chandra Sharma, Officer Incharge was present on behalf of Railway. On 17.8.2015 Sh. R.C.Jain learned representative was present on behalf of applicant & Sh. Kailash Chandra Sharma, Officer Incharge was present on behalf of Railway. Statement of claim was not filed & further time was sought to file statement of claim. Adjournment was allowed by the tribunal fixing 26.10.2015 for filing statement of claim.

4. On 26.10.2015 Sh. Rajendra Gupta, learned Advocate on behalf of applicant & Sh. Kailash Chandra Sharma, Officer Incharge was present on behalf of opposite party. Presiding Officer of the tribunal was on leave. Statement of claim was not filed & 9.11.2015 was next date fixed for filing statement of claim.

5. On 9.11.2015 none appeared on behalf of applicant. Sh. Lokesh Kumar, Senior Clerk (Personnel) was present on behalf of Railway who opposed any further adjournment providing opportunity to the applicant for filing statement of claim. It was alleged by the opposite party that more than a year has elapsed since applicant side has been served & applicant side has been continuously provided with opportunity to file statement of claim which has not been filed yet hence, further opportunity should be closed. Looking into order-sheet of the proceeding it appears that since 9.7.2014 applicant side has been in appearance but statement of claim has not been filed till 9.11.2015 hence, further opportunity for filing statement of claim was closed on 9.11.2014 & case was reserved for award.

6. It is pertinent to note that on 13.5.2014 reference order was sent by Ministry to applicant with direction to file statement of claim within 15 days from the date of receipt of reference. Applicant has neither filed statement of claim on the direction of Ministry nor on notice & knowledge of the proceeding pending before the tribunal. It appears that applicant is not interested & willing in submitting the claim for adjudication. In the circumstances & in the absence of material evidence brought on record, tribunal is unable to record the finding on the issues referred to it on merit. Accordingly, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

7. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 11 जनवरी, 2016

का.आ. 109.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पश्चिम रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 11/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल-41011/01/2015-आईआर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 109.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of North West Railway and their workman, received by the Central Government on 11/01/2016.

[No. L-41011/01/2015- IR(B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 11/2015

Reference No. L-41011/01/2015-IR (B-I)

dated: 10.2.2015

The Zonal Working President
North West Railway Karmchari Sangh
8-A, DAV Collage Staff Colony
Bayavar Road, Ajmer (Rajasthan).

V/s.

1. The Chief Factory Manager
North West Railway
Ajmer (Rajasthan).
2. The Dy. Chief Electrical Engineer (Co)
North West Railway
Ajmer (Rajasthan).

AWARD

26.11.2015

1. The Central Government in exercise of the powers conferred under clause (d) of sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“क्या प्रबंधन मुख्य कारखाना प्रबंधक, उत्तर पश्चिम रेलवे, अजमेर व उप मुख्य विद्युत अभियंता (का0), उत्तर पश्चिम रेलवे, अजमेर द्वारा एल डी सी ई कुशल कामगार चयन लिखित परीक्षा में पात्र कर्मचारियों को भी अपात्र घोषित किया जाने की कार्यवाही बैधानिक एवं न्याय संगत है, यदि नहीं तो प्रार्थी यूनियन किस राहत की और कब से पाने की हकदार है ?”

2. Pursuant to the receipt of the reference order, registered notices were issued to the parties as per the order of the tribunal fixing 24.6.2015 for filing statement of claim. On 24.6.2015 Sh. P.C.Saini, Zonal President of North Western Railway Karamchari Sangh was present in person for applicant. On behalf of opposite party Railway Sh. Purnendu Sharma, Learned Advocate was present. Sh. P.C.Saini requested to adjourn the proceeding & asked for time to file statement of claim on next date 7.9.2015. On 7.9.2015 none appeared on behalf of applicant. Sh. Purnendu Sharma, Advocate was present on behalf of opposite party. Case was adjourned by tribunal on its own motion in interest of justice & further 18.11.2015 was fixed for filing statement of claim by applicant. On 18.11.2015 none appeared on behalf of applicant & statement of claim was not filed. On behalf of opposite party their learned representative were present. Again, case was adjourned on 18.11.2015 by

tribunal fixing 26.11.2015 for filing statement of claim by applicant.

3. On 26.11.2015 neither anyone appeared on behalf of applicant nor statement of claim was filed. On behalf of opposite party their learned representative appeared who opposed providing further opportunity to the applicant with contention that since June, 2015 applicant has been in appearance but statement of claim has not been filed whereas opposite party has been in appearance on all the dates. On basis of objection mentioned above raised by opposite party further opportunity for filing statement of claim by applicant was closed & case was reserved for award.

4. It is pertinent to note that reference order dated 10.2.2015 was sent by Ministry to applicant with direction to file statement of claim within 15 days from the date of receipt of reference. Applicant has neither filed statement of claim on the direction of Ministry nor on notice & knowledge of the proceeding pending before the tribunal. It appears that applicant is not interested & willing in submitting the claim for adjudication. In the circumstances & in the absence of material evidence brought on record, tribunal is unable to record the finding on the issues referred to it on merit. Accordingly, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

5. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 11 जनवरी, 2016

का.आ. 110.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर पूर्व रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 38/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था ।

[सं. एल-41011/38/2014-आईआर (बी-I)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 110.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2014) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of North Eastern Railway and their workman, received by the Central Government on 11/01/2016.

[No.L-41011/38/2014- IR(B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, LUCKNOW

PRESENT

RAKESH KUMAR, Presiding Officer

I.D. No. 38/2014

Ref. No. L-41011/38/2014-IR(B-I) dated: 06.05.2014

BETWEEN

Anchal Sangthan Secretary

Rail Sevak Sangh

C/o Shri D.P. Awasthi

49, Tilak Nagar

Lucknow.

(Espousing cause of Sri Kamta Prasad)

AND

1. Sr. Divisional Personnel Officer

North Eastern Railway

DRM Office, Ashok Marg

Lucknow.

2. The Chief Medical Superintendent

North Eastern Railway

Gonda (UP)

AWARD

1. By order No. L-41011/38/2014-IR(B-I) dated: 06.05.2014 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Anchal Sangthan Secretary, Rail Sevak Sangh, C/o Shri D.P. Awasthi, 49, Tilak Nagar, Lucknow and Sr. Divisional Personnel Officer, North Eastern Railway, DRM Office, Ashok Marg, Lucknow & the Chief Medical Superintendent, North Eastern Railway, Gonda (UP) for adjudication.

2. The reference under adjudication is:

"क्या पूर्वोत्तर रेल प्रशासन, लखनऊ व गोंडा द्वारा श्री कामता प्रसाद पुत्र श्री कंधाई, सफाईवाला को पुरानी पेंशन न देकर नई पेंशन दिया जाना न्यायोचित एवं वैध है? यदि नहीं तो कामगार किस राहत को पाने का हकदार है?"

3. On receipt of the reference order the workman's union was issued registered notice to file his statement of claim complete with relevant documents, list of reliance and witnesses before Tribunal on 17.07.2014 with an advance copy to the opposite party. The Secretary of the workman's union appeared before this Tribunal and requested for a date for filing of statement of claim.

4. On successive dates the management also turned up. Since the case was related to grant of old pension scheme instead of new pension scheme, the parties were advised to settle the dispute amicably through Lok Adalat. Accordingly, the case was taken up at Lok Adalat on 08.05.2015.

5. On 08.05.2015, Shri D.P. Awasthi, Secretary of the workman's union was present whereas the opposite parties were represented by Shri Upendra Kumar Sharma, Chief Welfare Officer.

6. The opposite party filed M-5, letter signed by Sri P.B. Prasad, Senior Divisional Personnel Officer, North Eastern Railway, Lucknow, enclosing circular No. 2012/F(E)III/I(I)/2 dated 29.10.2014 of the Railway Board. The management in letter M-5, referring circular dated 29.10.2014 has stated that the Railway Board, New Delhi vide their circular dated 29.10.2014 has directed to cover the employees who got temporary status prior to 01.01.2004 may be covered under Old Pension Scheme.

7. A copy of the M-5 was furnished to the workman's union. The authorized representative of the workman's union sought time to consult the workman; and accordingly, the case was taken up on 12.12.2015 at National Lok Adalat. The Authorized representative of the workman's union, Shri D.P. Awasthi after going through the contents of letter, M-5 and circular dated 29.10.2014 showed willingness to withdraw the present industrial dispute being claim settled; and made an endorsement thereupon as under:

"Since the relief claimed by the Union has been accepted by the opposite party, further proceeding of this case may kindly be dropped."

8. In view of the submission/endorsement of the workman's union for dropping of the proceedings, there is no grievance left with the workman's union as the present industrial dispute pertains to non-grant of old pension to the workman by the railway management and the management of the railway has granted the same vide circular 2012/F(E)III/I(I)/2 dated 29.10.2014 of the Railway Board. Resultantly, the industrial dispute stands settled; and no relief is required to be given to the workman concerned. The reference under adjudication is answered accordingly

9. Award as above.

Lucknow

28th December, 2015

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 11 जनवरी, 2016

का.आ. 111.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ बिकानेर एण्ड जयपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली के पंचाट (संदर्भ संख्या 293/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल-12025/01/2016-आईआर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 293/2011) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No.I, Delhi as shown in the Annexure, in the industrial dispute between the management of State Bank of Bikaner & Jaipur and their workman, received by the Central Government on 11/01/2016.

[No.L-12025/01/2016-IR (B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. 1, DELHI**

ID No. 293/2011

SHRI SURENDER KUMAR,

House No.51/14, Gali No.13,

Nai Basti, Anand Parbat,

New Delhi 110 005

...Workman

Versus

The General Manager,

State Bank of Bikaner & Jaipur,

Region – 1, Ahimsa Bhavan,

Shankar Road, New Rajender Nagar,

New Delhi

...Managements

AWARD

Brief facts giving rise to the present claim under Section 2A read with Section 2A(2) of the Industrial Disputes Act, 1947 (in short the Act) are that the claimant Shri Surender Kumar joined State Bank of Bikaner and Jaipur as Clerk in 1980 and was an active member of the State Bank of Bikaner and Jaipur Employees Union, Delhi. Lastly, he was Vice President of the above union when he was discharged from service in an illegal manner on 07.05.2011 and at that time, he was posted at Paschim Vihar branch of New Delhi. The claimant was issued a show cause notice dated 17.11.2009 (Annexure W2) with the following allegations:

- (i) You facilitated M/s Mohit Trading Co., M/s Surana Brothers, M/s S.N. Enterprises and M/s Nanglia Traders to open Current Accounts in the branch and to route heavy and suspicious transactions in their newly opened accounts.
- (ii) You took the payment of both the cheques of Rs.9850.00 and Rs.9800.00 on 20.05.2009 from Shri Madan Pal Manocha (SWO) in the deceased

constituents' accounts M/s. Shakti Enterprises and M/s. Krishna Traders respectively though cheque No.260309, 260310 issued in the account of M/s. J.K. Kitchen were surrendered by them at the time of closure of account on 16.06.2008.

- iii) The proprietor in both the accounts M/s. Shakti Enterprises and M/s. Krishna Trader, viz. Shri S.C. Gulati had already expired on 22.03.2009. Thus, in connivance with Shri Madan Pal Manocha, you perpetrated fraud in the account of the deceased constituents of the bank.

2. Claimant replied to the above notice and denied the allegations made vide letter dated 05.12.2009. Thereafter, claimant was placed under suspension on 14.12.2009 and charge sheet was issued against the workman on 18.02.2010 vide Annexure W4. It is also averred in the statement of claim that the claimant made a request to the bank on 12.04.2010 that he was not supplied with the documents proposed to be relied by the management in respect of charges leveled against him, as is evidence from Annexure W5. Supply of documents was necessary so as to enable the claimant to effectively defend himself. Initially, preliminary enquiry was conducted against him. Thereafter regular charge sheet Ex.WW1/1 was served upon him. Since the reply submitted by the claimant was found to be not satisfactory, as such Shri Rameshwar Dayal was appointed as Enquiry Officer. Enquiry was conducted against the claimant and report dated 10.02.2011 was submitted to the Disciplinary Authority and copy of the same was supplied to the claimant. It is clear from perusal of the report that Articles 2 and 3 were held to be not proved by the Enquiry Officer. Thereafter, show cause notice dated 18.04.2011 was also served upon the claimant to present facts before the Disciplinary Authority and reply dated 18.04.2011 and reply 18.04.2011 was also filed by the claimant. The Disciplinary Authority did not agree with the findings of the Enquiry Officer qua article of charges 2 and 3 and held that these charges also stand proved against the claimant herein as a result of which, he was discharged from service vide order dated 07.05.2011. Thereafter, the claimant herein preferred an appeal against the order dated 07.05.2011 in terms of Bipartite Settlement but the same was also rejected on 01.07.2011 by the Appellate Authority. It was thereafter the workman raised an industrial dispute before the Assistant Labour Commissioner(Central), New Delhi in terms of provisions of the Act, but no settlement could be arrived due to anti-workman stand of the management. Finally the present claim was filed before this Tribunal by the workman as a period of 45 days had expired after raising the industrial dispute before the Conciliation Officer and no decision was given within the stipulated period.

3. Management denied all the material averments contained in the statement of claim and took preliminary objections that the misconduct contained in charge sheet

dated 18.02.2010 stood proved in the departmental enquiry held against the claimant, which is in consonance with principles of natural justice. Commensurating with the gravity of charges, the workman was imposed punishment of 'discharge from service with superannuation benefits'. Punishment is legal, justified and proportionate to the misconduct committed by the claimant. Secondly, the workman has impugned the departmental enquiry solely on the premise that documents were not supplied to him whereas the workman had duly participated in the above enquiry and proceedings dated 12.04.2010 shows his admission to receipt of documents and list of witnesses. Management is a financial institution constituted under the State Bank of India Act, 1959 and its employees cannot be allowed to peril and gnaw the very existence of the institution by committing grave misconducts. Since the Disciplinary Authority held the charges to be proved, as such, court is not required to sit as an Appellate Court over the same. On merits, the management has admitted the factum of employment of the claimant since 1980 and admitted para 1 to 3 of the statement of claim. However, bank denied allegations regarding non-supply of documents by the Enquiry Officer to the claimant. It is alleged that the Disciplinary Authority has disagreed with the findings of the Enquiry Officer and independently perused the evidence on record in the domestic enquiry. Opportunity was given to the claimant herein to represent against the tentative findings and representation was filed by he workman, which is 12.03.2011. It was thereafter that the disciplinary authority after considering the entire record and evidence on record, issued show-cause notice to the workman proposing punishment of discharge from bank service with superannuation benefits.

4. Against this factual background, my learned predecessor on the basis of the above pleadings, framed the following issues vide order dated 29.09.2011:

- (i) Whether the enquiry conducted by the bank was just, fair and proper?
- (ii) Whether punishment awarded was proportionate to the misconduct of the claimant?
- (iii) As in terms of reference
- (iv) Relief

5. Issue No.(i) was treated as preliminary issue as it pertained to domestic enquiry conducted by the management and thereafter parties were called to adduce evidence on the above issue. Management, in support its case, examined Shri M.L. Makkar, Manager as MW1 and Shri S.K. Puri, as MW2, and tendered their affidavits as Ex.MW1/A and Ex.MW2/A respectively and the workman examined himself as WW1 and tendered his affidavit as Ex.WW1/A. Workman has also adduced documentary evidence pertaining to the domestic enquiry held by the management.

6. My learned predecessor, after hearing the parties and considering material on record insofar as findings on the preliminary issue is concerned, vide order dated 27.01.2012 held as under:

“17. In his report dated 10.02.2011, Enquiry Officer found that charge Nos. 2 and 3 were not established against the claimant. The Disciplinary Authority differed with the Enquiry Officer and recorded findings to the effect that those charges also stand established. Findings, so recorded by the Disciplinary Authority, were conveyed to the claimant, who was given an opportunity to make a representation against them. It is settled proposition of law that Disciplinary Authority may differ with the findings recorded by the Enquiry Officer. When the Disciplinary Authority differs from the findings of the Enquiry Officer, he is duty bound to intimate his attitude to the delinquent employee and to offer him opportunity to make a representation. Law to this effect was laid by the Apex Court in *Narain Mishra* (1969 SLR 657). Here in the case, the Disciplinary Authority differed with the findings recorded by the Enquiry Officer, communicated his findings to the claimant and gave him an opportunity to offer explanation against those findings. These facts make it clear that the Disciplinary Authority had not at all violated principles of natural justice. No prejudice was caused to the claimant when the Disciplinary Authority differed with the findings of the Enquiry Officer.

7. In para 22, my learned predecessor held as under:

22. The Enquiry Officer recorded findings in favour of the claimant in respect of imputation Nos. 2 and 3. He concluded that those charges are not proved against the claimant. However, the Disciplinary Authority had not agreed with the Enquiry Officer. It is settled proposition of law that the Disciplinary Authority may differ with the findings arrived at by the Enquiry Officer. When the Disciplinary Authority differs with the Enquiry Officer, he is under an obligation to record his provisional conclusion and give show-cause notice of the proposed punishment to the employee concerned. Here, in the case, the Disciplinary Authority recorded his provisional conclusions on imputation Nos. 2 and 3, which conclusion are extracted thus:

Imputation No.2

1. The Investigation Report of Shri Rakesh Gupta in the matter clearly mentioned that you took the payment of both the cheques of Rs.9850.00 and Rs.9800.00 on 20.05.2009 from Shri Madan Pal Manocha(SWO) in the deceased constituents' accounts M/s. Shakti Enterprises and M/s. Krishna Traders respectively though cheque No.260309, 260310 issued in the account of M/s. J.K. Kitchen were

surrendered by them at the time of closure of account on 16.06.2008.

2. Your name is also appearing in the cashier payment scroll for taking the payment of both the cheques 260309 and 260310.

3. Our Lawrence Road, Delhi branch has also advised that the cheque book to which both the cheques No.260309 and 260310 pertains was found from your drawer.

There are sufficient circumstantial evidences, hence the Imputation No.2 Stands Fully Proved.

Imputation No.3

1. the Investigation Report of Shri Rakesh Gupta in the matter clearly mention that the proprietor in both the accounts M/s. Shakti Enterprises and M/s Krishna Trader, viz. Shri S.C. Gulati had already expired on 22.03.2009. Thus, in connivance with Shri Madan Pal Manocha, you perpetrated fraud in the account of the deceased constituents of the bank.

2. Your name is also appearing in the cashier payment scroll for taking the payment of both the cheques 260309 and 260310.

3. Our Lawrence Road, Delhi branch has also advised that the cheque book to which both the cheques No. 260309 and 260310 pertains was found from your drawer, hence Imputation No.3 Stands fully proved

There are sufficient circumstantial evidences, hence the Imputation No.2 stands Fully Proved.

8. After considering the entire evidence on preliminary issue, it was held that since the Disciplinary Authority has taken into consideration extraneous material in recording his provisional conclusion regarding Imputation Nos. 2 and 3, which culminated into passing of the final order, as such, it was held that the enquiry was not fair. Findings recorded Imputation Nos.1, 2 and 3 were held to be stuck in cobweb of illegality. When major portion of the report is found to be ultra vires., in that situation the bank loses the preliminary issue. Resultantly, it was concluded that the enquiry conducted by the bank is neither fair nor just nor legal. In view of this, preliminary issue was answered in favour of the claimant and against the bank.

9. Since in the written statement, Bank pleaded that in case enquiry is set aside, in that eventuality opportunity is given to the management to prove the charges on merit against the claimant herein. Thereafter, opportunity was afforded to both the parties to adduce evidence in respect of the above charges. Management, in support of its case, examined Shri Rakesh Gupta, Chief Manager as MW3 and Shri Amit Kumar as MW4. However, Shri Surender Kumar has not stepped into the witness box in rebuttal to the above evidence.

10. Before I proceed to consider evidence adduced by the management on merits, it is necessary to bear in mind legal position pertaining to the value of domestic enquiry when preliminary issue has been decided against management. In the case of *Karnataka Road Transport vs. Laxmi* (2001) Lab.I.C 1777, Constitution Bench of Supreme Court considered entire spectrum of law on the subject and held that it was not open to the management to rely upon the domestic enquiry proceedings already held by the Enquiry Officer, including evidence recorded by him. It was also held that the issue relating to the domestic enquiry conducted by the management should always be tried as preliminary issue and the Tribunal is required to render findings on that issue first after ascertaining whether principles of natural justice have been followed or enquiry is otherwise unfair or stands vitiated on account of other legal reasons. Finally, if the domestic enquiry is found to be unfair or against principles of natural justice, evidence collected in such an enquiry cannot be taken into consideration by the Court and Tribunal has to decide the question of misconduct afresh after affording opportunity to both parties. The Hon'ble Apex Court clarified that record pertaining to domestic enquiry would not constitute 'material on record' within the meaning of Section 11A of the Industrial Disputes Act, 1947. I am in full agreement with the contention of the management that this Tribunal is not bound by strict principles of criminal law i.e. 'proof beyond reasonable doubt'. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Indian Evidence Act.

11. In the case in hand, Ms. Kitu Bajaj, urged that management only harps on charge No.4 and the management is only pressing charge No.4 pertaining to misconduct of the workman herein. At this stage, it is proper to mention the Article of Charges which were framed against the workman herein and the same are as under:

1. You facilitated M/s. Mohit Trading Co., M/s. Surana Brothers, M/s S.N. Enterprises and M/s. Nangia Traders to open Current Accounts in the branch and to route heavy and suspicious transactions in their newly opened accounts.

2. You took the payment of Rs.9850.00 and Rs.9800.00 on 20.05.2009 from Shri Madan Pal Manocha(SWO) in the deceased constituents' accounts M/s. Shakti Enterprises and M/s. Krishna Traders respectively though cheque No.260309, 260310 issued in the account of M/s. J.K. Kitchen were surrendered by them at the time of closure of account on 16.06.2008.

3. The proprietor in both the accounts M/s. Shakti Enterprises and M/s. Krishna Trader, viz. Shri S.C. Gulati had already expired on 22.03.2009. Thus, in connivance with Shri Madan Pal Manocha, you perpetrated fraud in the account of the deceased constituents of the bank.

4. Following unauthorized and fraudulent transactions were put through under your ID:

(a) On 28.01.2009, the entry of IBIT dated 19.01.2009 for Rs.12.00 lac was adjusted with debit to IBR A/c 98611103551 on the strength of an advice dated 23.01.2009 received from Rohini, Delhi, Code 10841 which was meant for adjusting cash remittance entry dated 23.01.2009 of IBIT.

(b) On 02.03.2009, a cheque for Rs.15.10 lac was lodged in clearing value dated 04.03.2009 in the account of M/s. Oracle Infotech Pvt. Ltd. the cheque was returned unpaid but the cheque was debited to the account on 16.03.2009, i.e. after gap of 12 days. The debit was made in the account by you against the fraudulent credit of Rs.15.00 lac done by you from proceed of IBR advice dated 04.03.2009 representing cash remittance responding advice of Branch, Delhi, Krishana Nagar, Code 10015 detailed in para (c).

(c) On 16.03.2009, you posted following fraudulent transactions in the system to provide undue financial gain to M/s. Oracle Infotech Pvt. Ltd.

Debited IBR Account 98611103551 Rs.15.00 lac

(IBR advice dated 04.03.2009 Branch Code 10015

Credited M/s. Oracle Infotech Pvt. Ltd. Rs.15.00 lac

(A/c 61039670841

12. In order to establish allegations contained in Charge No.4, It is necessary to refer to statement of Shri S.K. Puri MW2 who was Manager in Lawrence Road branch of the Bank from August 2009 till May 2010. After his examination on November 20, 2012, his cross-examination was deferred. On 31.12.2012, this witness requested the Tribunal for deferring his cross-examination so as to check the record as to whether the workman herein ever dealt with the seat relating to current accounts of customers. On next date of hearing, i.e. 22.01.2013, Shri S.K. Puri, MW2 deposed that no office order came to his knowledge which may show that workman ever dealt with seat relating to current accounts of customers. To a court question, i.e. 'Please go through the documents Ex.MW2/ 1 to Ex.MW2/6 whether any transaction in respect of these documents was ever handled by the workman herein'. He answered 'Some time may be given to me to check the record and answer the above proposition'. Thereafter, this witness never appeared before the Tribunal to answer the query of the Tribunal. Resultantly, the Tribunal is bound to draw adverse inference against the bank, particularly when no explanation whatsoever has been given by the Bank for non-appearance of Shri S.K. Puri. Shri Rakesh

Gupta, MW3 has stated that claimant was not handling current accounts officially. This witness also admitted that punishment given to Shri Manocha who was charged with same misconduct was different, again shows partisan and discriminatory attitude of Bank towards the workman herein. Further, Shri V.K. Virmani, vide Ex.MW1/W2 had stated that claimant had no role whatsoever in transaction mentioned in charge No.4. It is also necessary to mention that when claimant, WW1 after finding on preliminary issue, he tendered in evidence his affidavit, Ex.WW1/B. There is no cross-examination specially by the bank on any specific point, particularly charge No.4. It is a matter of common practice that when payment of cheque is made, the signature of the person receiving the payment is taken on reverse of the cheque. It is also noteworthy that cheques Ex.MW1/W6 and Ex.W1/W7 nowhere bears signatures of the workman herein as a token of the fact that the claimant has received payment of the above two cheques. Though cashier has recorded name of the claimant to payment scroll Ex.MW1/52 and Ex.MW1/W3 may suggest that claimant has received the payment. But the workman herein was neither working on this seat nor handling current accounts at the relevant time. There is no practice in the bank to record the name of receipt of amount on the payment scroll.

13. It is also appropriate to refer to the statement of MW3, Shri Rakesh Gupta. The Chief Manager has specifically tendered in evidence, report of the Investigating Official, Shri Rameshwar Dayal, Ex.MW2/3. As discussed above, reports of the above witnesses cannot be taken into consideration so as to prove charges against the workman inasmuch as this witness after holding of the preliminary issue to be unfair and against principles of natural justice, has not entered into the witness box. It is not out of place to mention here that even the Enquiry Officer has held Charges Nos. 2 and 3 were not proved against the workman herein.

14. Shri Rakesh Gupta has admitted in his cross-examination that the workman herein, Shri Surender Kumar was not handling Current Accounts official and while filling account opening form of the aforesaid current account, the claimant facilitated routing of heavy amounts through the said accounts. However, in his affidavit, he has not stated that the claimant had routed heavy accounts through the above accounts and in report MW1/W5, branch made payment of cheque No.260310 dated 20.03.2009 in favour of Shri Ankit Kumar drawn by M/s. Krishna Traders for Rs.9800.00 on 20.05.2009. He has further admitted whenever payment is received by a person, his signature is obtained on reverse of the negotiable instrument. Cheques, Ex.MW1/W6 and Ex.MW1/W7 nowhere bears signatures of the claimant in token of the fact that he has received payment of the aforesaid cheque. This also goes to show that the claimant cannot be primarily made responsible for the wrongful withdrawal of the amount, if any, from the bank accounts. It was the cashier in fact who has recorded

name of the workman herein on the payment scroll, Ex.MW1/W52 and Ex.MW1/53 to indicate payment of the four cheques were received by the claimant. In such a situation, examination of the cashier was essential so as to unfold the truth. Moreover, there was no practice in the bank to record name of the recipient of an amount of a cheque on the payment scroll. If this practice was being followed by the bank, in that eventuality, signatures on the back of the cheque would be suggestive of the fact as to who received the payment. This witness also deposed that Shri Madan Lal Manocha was proceeded departmentally and was awarded punishment of stoppage of three annual increments with cumulative effect. Since Shri Manocha, admittedly was a very senior official and it is clear that for the unlawful act, he was awarded harsh punishment and Manocha has tried to pass on the buck on Shri Surender, the workman herein, on the grounds that his name has been mentioned on the scroll discussed above. Why different punishment has been awarded to the workman herein was not clearly explained by the management. Therefore, mere allegation on Manocha that he had paid the amount to the workman herein cannot be taken as a gospel truth.

15. Statement of Shri Amit Kumar, MW4, is also not of much help so as to prove charges against the workman herein. He has simply deposed in para 2 of the affidavit regarding fraudulent transactions which was put by the workman herein through his ID. However, he has clarified that he was not posted at Lawrence Road branch of the management during the period to which the charges relate and has no personal knowledge of the present enquiry. He had no knowledge regarding filing of any case in respect of the above incident. He has clarified that he has nothing to say about the count of charge Nos. 2 and 3. He has further clarified in his subsequent cross-examination that Shri Virmani, Deputy Manager has cleared the above cheque under consideration. Thus, it is clear that the workman herein cannot be solely blamed and other senior officials have tried to pass on the buck on the junior official so as to save their skin. Further, workman herein in fact has no direct role whatsoever in the transactions mentioned in charge No.4, as was admitted by Shri Virmani in Ex. MW1/W2.

16. I have gone through the judgments relied by the management, i.e. State of Haryana Vs. Rattan Singh (AIR 1977 SC 1512). It was a case of a conductor whose duty was to collect fare from the passengers and issue tickets. Since the conductor was not issuing tickets and was caught by the flying squad resulting in enquiry. After domestic enquiry his services were terminated. The conductor filed a suit and challenged order of termination to be nullity and Trial Court passed judgement in favour of the conductor, which was affirmed in appeal. High Court dismissed the Second appeal in limine and thereafter matter was taken to the Apex Court.

17. Careful appraisal of the judgement shows that the Hon'ble Supreme Court observed that for an inquiry, strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All material which are logically probative for a prudent mind are permissible. There is no dispute with this proposition of law but how it helps the case of the management could not be strictly answered by the management.

18. Shri Inderjit Singh, authorized representative appearing on behalf of the workman had placed reliance in the case of Shri Rajender Yadav Vs. State of MP [2013 (137) FLR 239] wherein the Hon'ble Apex Court has observed that role of co-delinquent who had demanded and received the money more serious than the other delinquent who has played a passive role but was awarded serious punishment of dismissal. Doctrine of equality applies to all who are equally placed, even among persons who are found guilty. In another case, K. Aggarwal Vs. the Factory Manager, Gwalior [2001 (91) FLR 380], Hon'ble High Court has highlighted that it must be pleaded and proved by the management that (i) the workman was holding a position of trust and confidence, (ii) by abusing such position, he commits acts which results in forfeiting of the same and (iii) to continue him in service would be embarrassing and inconvenient to the employer. All these three aspects must be present to refuse reinstatement on ground of loss of confidence. There is neither any doubt nor any dispute with the above proposition of law inasmuch as position of bank official is very pivotal who deals with public money and stands in fiduciary relations with the management as well as the customers whose accounts such official is dealing.

19. However, in the case in hand management has not proved the direct role of the workman herein in commission of fraud and simply because there is an entry on the scroll that he has received money cannot absolve the management of its requirement to prove the charges against the charged employee. Moreover, these documents have already been considered by the Tribunal while rendering findings on the preliminary issue. It was only thereafter that the Tribunal has held the finding of the Enquiry Officer to be unfair and against principles of natural justice.

20. It is held that the management has failed to prove the charges against workman herein, as required under the law.

Relief

Net result of the discussion is that the management has failed to prove the charges of misconduct against the workman herein. Resultantly, order dated 07.05.2011 of 'Discharge from the Bank's service with superannuation benefits' Ex. WW1/1 is, hereby, set aside and it is held that the workman herein, Shri Surender Kumar is ordered to be reinstated with back wages alongwith all consequential

benefits. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A.C. DOGRA, Presiding Officer

नई दिल्ली, 11 जनवरी, 2016

का.आ. 112.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ संख्या 33/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11/01/2016 को प्राप्त हुआ था।

[सं. एल-41012/10/2006-आईआर (बी-1)]

विनय कुमार, अनुभाग अधिकारी

New Delhi, the 11th January, 2016

S.O. 112.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. II, Delhi as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workman, received by the Central Government on 11/01/2016.

[No. L-41012/10/2006-IR (B-I)]

VINAY KUMAR, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, DELHI

Present:- Shri Harbansh Kumar Saxena

ID. No. 33/2007

Sh. Ali Hasan, S/o Sh. Rashid,
R/o Village, Teli Wala Guzaar Patil
Post Dandera Roorkee,
Distt, Haridwar,
Haridwar

...Workman

Versus

1. The Senior DEN(II),
O/o Divisional Railway Manager,
Northern Railway Railway,
Near Delhi Rly. Station,
New Delhi
2. The Assistant Engineer,
Northern Railway,
Meerut Cantt.
Meerut (U.P.)

...Management

AWARD

The Central Government in the Ministry of Labour vide notification No. L-41012/10/2006-IR(B-I) dated 27.07.2007 referred the following Industrial Dispute to this Tribunal for adjudication :-

“Whether the action of the management of Northern Railway in terminating services by imposing the penalty of removing from service w.e.f 12.07.2000, of Sh. Ali Hasan S/o Sh. Rashid, Gangman (in Gang No. 75, TPRI, Northern Railway, New Delhi) on the alleged charges of misconduct leveled against him vide chargesheet dated 27.04.2000, is legal, fair and justified? If not, to what relief the workman concerned is entitled?

On 03.08.2007 reference was received in this Tribunal. Which was register as I.D No. 33/2007 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 31.12.2007. Wherein he prayed as follows:-

It is prayed to the Hon’ble Tribunal that it may pleased to pass Award holding that the order of disciplinary and appellate authorities are illegal and invalid, in view of the submissions made hereinabove. It may further be held that the workman is entitled to relief of reinstatement with back wages and other consequential benefits. The reference be answered accordingly.

Against claim statement management filed written statement on 29.01.2008. Through which management prayed as follows:-

That the prayer clause is also wrong, false, incorrect and hence denied. That it is denied that workman is entitled to any award from this Hon’ble Tribunal in his favour thus declaring the order of disciplinary and appellate authorities as illegal and invalid in view of the submissions made herein above. That it is also further wrong and hence denied that the workman is entitled to relief of reinstatement with back wages and other consequential benefits.

That on the contrary in view of the true submissions maybe herein above, the present statement of claim which is wrong, false, incorrect, ill motivated with not even an iota of truth in it deserves to be declined completely for want of merits.

Claimant on 30.04.2008 filed Rejoinder. Wherein he prayer as follows:-

It is prayed to the Hon’ble Tribunal to pass Award as prayed in the prayer clause of the claim statement.

My Ld predecessor on 13.05.2013 framed following issues:-

1. Whether enquiry conducted by the management is just, fair and proper?

2. Whether punishment of removal from service commensurate to the misconduct of the claimant?
3. As in terms of reference.

Workman filed affidavit on 7.11.2013 and examined himself as WW1 and he was also cross-examined on 18.02.2014. His statement as follows:-

I tender in evidence my affidavit Ex.WW1/A which bears my thump impression at point ‘A’ and ‘B’ I rely upon the document Ex.-1 and Ex. WW-2 and photocopies marked. Ex.WW1 to WW4 and photocopies mark 1 to mark-4

XXXX:- By Mrs. Mithlesh Singh, advocate for Northern Railway.

I cannot read and write English. I am not aware of contents of evidence by way of affidavit Ex. WW1/A. I had worked for 22 years with Northern Railway. During my employment with Railway. I reside at village Teliwara and near Roorkee station. One Mr. Jaipal, Chotey, Suraj Singh, and Jamel were my colleagues during my employment. I had filed the reply to the charge sheet marked I have not brought today the copy of my reply to the document marked-1. I have also not filed in the present matter and neither can I bring on the next date.

I cannot tell on the document marked WW2 to where it mentioned that I was admitted in the hospital. I do not have any other document with regard to my illness Except for document already marked WW2. It is wrong to suggest that documents mark WW2 suggest that documents mark WW2 not state that I was admitted in the hospital. I cannot tell the date when I was admitted to the hospital. I am not aware of the contents of my appeal. Which is marked IV in my evidence. I got my appeal prepared from one of the Railway Office. However I cannot tell his name and designation. I had furnished all the documents and information with regard to charge sheet issued to me for the purpose of preparation of appeal. I cannot tell when I filed the appeal with the DRM office. The appeal was prepared within 2 days. I had shown the letter marked -4 to my friend who were prepared my appeal. He had told me the contents of the same after reading it. I had also filed an application for condonation of delay with the Railway after the receipt of letter-4. I had not filed and neither I can bring the copy of said application. It is wrong to suggest that I never filed the application of condonation of delay. It is correct that FIR No. 139/2000 u/s C-323/504/506 IPC was registered against me and I have exhibited the same as WW-2 in my evidence as well. It is correct that I have filed the complaint after registration of FIR against me. My relations with 4 persons namely Jaipal Chotey, Jakel and Suraj Singh were cordial during my employment with Railway. It is wrong to suggest that attacked my senior when he caught me sitting ideal volunteered my fight was with Chotey as he was not working properly. I was beaten by Sh. Dinesh Kumar as I refute to bribe him. I never filed any written complaint against Sh. Dinesh kumar to any of

the Senior Officer. Volunteers:- I have informed to seniors orally. Sh. Dinesh Kumar asked me for bribe privately. It is wrong to suggest that Sh. Dinesh Kumar never asked me for any bribe. It is wrong to suggest that I am making false story subsequently as Dinesh Kumar was seriously injured and I had six stitches in his head. I was not aware of the appointment of Enquiry officer in 27.04.2000. Again said I had the knowledge of the same after being confronted of para -4 of my affidavit. I am not aware whether any letters were sent by the Railway to me. I did not attend the office after the fight till I was terminated. Volunteered I was terminated. Volunteered I was in the hospital from the same day. I was taken to hospital one gangman namely Raje Ram on the date of incident. The four witnesses deposed against me at the instant of Sh. Dinesh Kumar. It is wrong to suggest that proper Enquiry was conducted against me but I avoided the same as I had no merits in my favour. It is wrong to suggest that I have given the false stands in my appeal to the DRM office. It is wrong to suggest the order passed by the Railways were communicated to me regularly. It is wrong to suggest that I have filed application with Railway to condonation of delay of my appeal. It is wrong to suggest that I was held guilty by Railways for misconduct and violence after giving due opportunity to me as per law. It is wrong to suggest that I have deposed false and have filed the false Industrial Disputes before this Court.

Then workman closed his evidence. So, 16.4.2014 was fixed for management evidence.

On 16.4.2014 affidavit of MW1 Sh. Chhota was filed. Which was tendered on 16.9.2014. His examination-in-chief is as follows:-

I tender in evidence of my affidavit Ex. MW1/A which bears my signature at point 'A' and 'B'. Copy of entire official record documents Exh. MW1/1(colly) (OSR) containing 42 pages.

I tendering my authorization letter dts. 28.05.2014 as Ex. MW1/B.

Management witness was cross-examined on 11.3.2015 and his statement of cross-examination is as follows:-

I am unable to read and write in English. Generally I affixed L.T.I but rarely use to sign.

I am unaware of the fact my affidavit in evidence contains what so ever facts.

I know Ali Hasan since about 17-18 years.

In between aforesaid period I and Ali Hasan were simultaneously.

It is correct that no quarrel except the quarrel mentioned in written statement took place between Ali Hasan and any other officer of any management.

Ali Hasan was never punished prior to the punishment of the instant case.

Sh. Dinesh Kumar was looking after the work of my gang for the last about 7-8 years.

It is incorrect to suggest that aforesaid Dinesh Kumar reduces the attendance of workman to the extent of 50% (Halfdays of actual presence).

Vol: Stated he reduces the attendance to the extent of 50% on that day.

On the date of appearance there was some lacking in my performance of work. Ali Hasan inflected below through panji to Dinesh Kumar.

Ali Hasan was working nearby to me.

I do not know the name of inquiry officer who conducted inquiry again Ali Hasan.

Inquiry officer took my statement during inquiry.

I do not know whether I stated before him that Ali Hasan was working at a distance from me and whether any exchange of words took place between Ali Hasan and Dinesh Kumar.

I stated before inquiry officer that Ali Hasan infected below through Panji. I cannot ascend any reason if he mentions in my statement that I do not know through which weapon Ali Hasan infected below to Dinesh Kumar.

It is correct that Sh. Dinesh Kumar marked my attendance half day instead of one day after checking my work.

I stated before the inquiry officer that Sh. Dinesh Kr. also checked the work of Ali Hasan and other workman I also stated to inquiry officer that I saw Ali Hassan and Sh. Dinesh Kr. were fighting. At that time Ali Hasan was armed with panji & Sh. Dinesh Kumar, having sheet.

Voluntary stated sheet means attendance sheet.

It is incorrect to suggest that no mar took place between Ali Hasan & Dinesh Kr. It is also incorrect to suggest that Dinesh Kr. tried to extort money from Ali Hasan to which Ali Hasan has not agreed.

It is also incorrect to suggest that due to which Ali Hasan has falsely implicated.

It is also in correct to suggest that Dinesh Kr. himself slipped over line & received injuries.

It is also incorrect to suggest that case against Ali Hasan has been fabricated.

It is also incorrect to suggest that I am deposing falsely.

Then management closed its evidence. So, 5.5.2015 was fixed for arguments.

Management on 7.7.2015 filed written arguments. Wherein it mentioned as follows:-

1. That the present petition is liable to be dismissed as the same is filed without any cause of action and is also without any merits and truth in it and his completely based upon concocted stories concealed facts.

2. That the workman besides concealing many facts in his petition did not disclose that he was held guilty of assault on his senior who caught the workman not doing his job properly and on being asked to do so he was brutally assaulted by the workman. That there are the statement of witnesses of the incidence filed by the respondent, besides FIR against the workman and complete detailed factum and process report. That further the admissions and revulsions of the workman during his cross examination expose his false and wrongful claim before this Hon'ble Court. That the present claim is liable to be dismissed on this score alone.

3. That the workman also misleads this Hon'ble Tribunal by concealing that he had full knowledge of inquiry against him and had full knowledge of decision against him yet he did not file any appeal in time nor did he join the inquiry. That the said factum were exposed before this Hon'ble Court by virtue of admission of fact by the workman in his cross.

4. That as per Section 101 of the Indian Evidence Act, the onus /burden to prove his case was upon the workman himself, which he miserably failed to discharge. That the workman failed to prove even an iota of his case before this Hon'ble Tribunal. That on the contrary the workman admitted various true and real facts which goes against workman himself and further disqualify the workman's case in the litmus test of evidence and merits both.

5. The workman on the contrary to his claim admitted in his cross-examination that he got the enquiry notice but it was he who did not contest it. That this clearly shows that an enquiry was conducted and the workman was well aware of it, yet he preferred not to appear or contest the same. That the present claim is liable to be dismissed on this score alone.

6. The workman on the contrary to his claim admitted in his cross-examination that he had the information and copy of the orders passed against him. That this clearly shows that the workman was well aware of the orders passed against him, yet he preferred not to appeal or contest the same within time. That there is no infirmity in the orders of the Railways and hence the present claim petition is liable to be dismissed on this score alone.

7. That further the notices were also sent by registered post and by pasting as well besides by hand messenger to the workman, but yet he ignored the same and did not prefer to contest or place his stand (if any). That the proper

inquiry was conducted, statement of witnesses was also recorded, wherein after completion of entire process a speaking order were passed against the workman and he was communicated with the same and the said orders were admittedly well in his knowledge. That thus there is no infirmity in the orders of the railways and hence the present claim petition /appeal is liable to be dismissed with exemplary costs on this score alone.

8. That the respondent Northern Railway has exhibited the inquiry report in their evidence which is Ex. RW1/1 (colly) and which is the complete proof of neutrality and fair trial on part of the railways and the same is unchallenged in cross-examination by the workman as well. That nothing unlawful has been proved out of it by the workman to show that anything was contrary to the law and his rights which was done by the respondent railway. That thus again the workman failed to show and prove that there was any infirmity/illegality in the orders of the respondent and hence the present claim petition is liable to be dismissed on this score alone.

9. That Ex. RW1/1 shows of a detailed inquiry, statement of witnesses taken, FIR against workman which the workman has admitted in his cross-examination as well as his rejoinder as well.

10. That as regards the appeal, the workman has admitted in his cross-examination that he filed appeal after 45 days and he did not file any application for condonation of delay as well as while filing the appeal. That it is settled principle that the appellate authority cannot ignore/ overlook the statutory procedure and process of law and thus it cannot suo moto condone the delay in filing the appeal in contravention of the law. That the delay beyond limitation period to file appeal of appeal can only be condoned if it is prayed for by virtue of any application to do so and after evaluating the fairness and merits of the reasons given in such application to justify the delay thereof. That even the Court of Law do not admit time barred appeal unless it is accompanied by an application for condonation of delay in filing and the same is being allowed by the Hon'ble Court on merits.

11. That it is apparently clear beyond doubt that a proper enquiry and fair opportunity of trial was given to workman but the workman deliberately did not opt to content the same and also subsequently failed to file an appeal within the stipulated time. That while during his cross-examination the workman admitted many true facts which he did not disclose in his present claim and the said revulsions shatter the false claim of the petitioner like a house of cards and the present claim is liable to be dismissed on this score alone.

12. That the onus to prove his allegations is upon the workman as per the Indian Evidence Act, while the testimony of the workman and his cross-examination shatter his own false claim and expose him to the jury. That it is a

settled those who does not come with clean hands should be shown the door. That by mere false allegations based upon concocted stories and by hiding true facts from this Hon'ble court, the workman cannot expect nay favorable orders from this Hon'ble Court. That the on the contrary the workman was morally and legally bound to place true and fair facts before this Hon'ble Court rather than the concocted stories put by him.

That the workman as miserably failed to prove his false claim in accordance with the law as well as on merits and thus the present claim petition is liable to be dismissed with costs by this Hon'ble Court.

Workman filed written arguments. Wherein he mentioned as follows:-

1. That the petitioner/workmen joined the services of the Northern Railway as Gang man in the year 1978 and later on he was made a permanent . At the time of alleged occurrence the workman was posted at Tappri Railway Station as Gangman. The workman carried out his duties with utmost sincerity and diligence to the entire satisfaction of his seniors. It is alleged that the workman abused his senior and caused bodily harm to him on 20.04.2000. The allegations are false and made with oblique motive at the instance of his senior Denesh Kumar who abused and hit the workman as the workman did not fulfill the demand of Denesh Kumar to pay monthly money. On the refusal of workman Denesh Kumar used to mark the workman absent for half day and threatened for dismissal from service. On 20.04.2000 Denesh Kumar abused the workman and beat him with his foot and kicks. Consequently the workman suffered shock and injuries which developed chest point and hypertension he was treated at S.B.D. Hospital Saharanpur and was advised bed rest.

The workman lodged a criminal case no. 1161/2000 u/s 323/504/506 I.P.C. against Denesh Kumar about the occurrence and Denesh Kumar also lodged a case F.I.R. No. 137/2000 u/s /323/504/506 I.P.C about the same occurrence. Both the cases are pending trial in the court of A.C.J.M. Saharanpur. Copies of the cases are Ex.- WW-1 AND WW-2. Up to now Denesh Kumar did not appear in the court and record his evidence, cases are still pending and decision is awaited. The management by his Ex-parte enquiry removed the workman from service.

2. The workman examined WW-1 Ali Hassan who supported the complainant Ex-WW-1A and management examined Chotta MW-1 who submitted copy of the Enquiry Report Ex. RW/1 containing 42 pages.

3. The Enquiry conducted by the management is Ex-parte and Principle of Natural Justice was not followed. The workman was ill and getting treatment from Govt. S.B. D. Hospital Saharanpur. The management provided him no opportunity to represent himself and make representation. There is nothing on record to show that any information about the Enquiry was sent to the workman and it was

served on him by post or physically or returned undelivered or refusal to take it, no statement of any person was recorded during Enquiry . The procedure followed herein was in violation of Natural Justice.

4. The enquiry officer during enquiry did not examine complainant Denesh Kumar and there is no copy of the alleged FIR and Medical Report of Denesh Kumar in Ex.- RW/1 (containing 42 Pages) and no statement of the witness who had taken Denesh Kumar to Hospital from the spot. It shows that the Enquiry was not conducted properly. Hon'ble Supreme Court in similar case of Hardwari Lal Appellant Vs. State of U.P. and others AIR 2000 Supreme Court 277 has held that the Enquiry was not proper and the Dismissal order was set aside with the direction that the delinquent be reinstated. Photocopy of the judgment is attached herewith.

5. In Ex.-RW/1 (Containing 42 pages) there is no enquiry report prepared by the enquiry officer containing reasons for reaching on the conclusion that the charge is proved. There is no evidence that copy of the Enquiry Report was supplied to the workman. The enquiry was not conducted fairly.

6. The workman was not given any Notice to show cause against the punishment of Dismissal from service, and the workman was removed from service.

Sir, the workman has rendered about 23 years of service and has undisputable past conduct of service record, the authorities have not taken it in to consideration while imposing the punishment for misconduct, and the workman is out of job from the last 15 years. In view of the Ex-parte, unfair and improper enquiry it is prayed in the prayer clause of the claim statement.

In the light of pleadings of evidence of parties I perused the written arguments filed by parties.

Perusal of order dated 13.5.2013 makes it crystal clear date my Ld. Predecessor framed following issues:-

1. Whether enquiry conducted by the management is just, fair and proper?
2. Whether punishment of removal from service commensurate to the misconduct of the claimant?
3. As in terms of reference.

Out of which issue no. 1 treated as preliminary issue and parties were accorded opportunities to adduce their evidence.

Workman in his evidence produced himself as WW1. Through, which he tried to prove the inquiry conducted against him by management is not just, fair and proper as well as punishment of removal from service is not in proportion to his alleged misconduct on this count he claimed for reinstatement alongwith back wages.

In written arguments filed on behalf of workman his Ld. A/R placed reliance on principle laid down in case of

Hardwari Lal Vs. State of U.P. AIR 2000 Supreme Court 277. While on the other hand management in his turn produced MW1 Sh. Chhota, who tendered his affidavit on 16.09.2014 and he was cross-examined on 11.3.2015 by Ld. A/R for workman.

Although, case was fixed for disposal of preliminary issue but Ld. A/R's for the parties with the consent of the parties pressed all the issue for their disposal.

My issue wise finding is as follows

Issue No. 1 issue is as follows:-

“Whether the action of the management of Northern Railway in terminating services by imposing the penalty of removing from service w.e.f 12.07.2000, of Sh. Ali Hasan S/o Sh. Rashid, Gangman (in Gang No. 75, TPRI, Northern Railway, New Delhi) on the alleged charges of misconduct leveled against him vide chargesheet dated 27.04.2000, is legal, fair and justified?

Which was treated as preliminary issue. Perusal of aforesaid issue makes it crystal clear that burden to prove this issue lies on management. Management to prove this issue produce inquiry report etc. and examined MW1 Sh. Chhota. Through his credible and reliable evidence management proved issue no.1. In rebuttal workman tried to prove that inquiry was ex-parte and no opportunity was given to him to defend in inquiry. But cross-examine of workman makes it crystal clear that he himself admitted that notice was received by workman and inspite of service he didn't turn up in inquiry proceedings to defend himself. So non-participation by workman in itself does render inquiry illegal and workman cannot take benefit on his own fault. Moreover, disciplinary authority agreed with the opinion of inquiry officer and notice was sent to workman of his proposed punishment. Then workman filed no reply. So dormancy of workman cannot be rewarded. His dormancy in itself confirms the conclusion of disciplinary authority.

Moreover, workman filed time barred appeal without application for condonation of delay as required under Indian limitation act.

In these circumstances this Tribunal has no option except to believe the evidence of management on the point of proof of issue no. 1. Hence Issue no. 1 is liable to be decided against workman and in favour of management. Which is accordingly decided.

FINDING ON ISSUE NO.2

This issue relates to punishment which appears to be in proportion of punishment. In the instant case workman was awarded punishment of removal on the ground of proof misconduct as he used filthy and abusive language against management as well as workman assaulted MW1 Sh. Chhota who proved his assault through, his reliable and credible evidence. So this Tribunal is unable to hold that

punishment of misconduct of workman is not in proportion of misconduct. This issue is also liable to be decided against workman and in favour of management. Which is accordingly decided.

FINDING ON ISSUE NO.3

Issue no. 3 relates to relief to workman but issue no. 1 and 2 have already been decided against workman and in favour of management. So workman Sh. Ali Hasan entitled to no relief.

On the basis of aforesaid discussion I am of considered view that present reference is liable to be decided against workman in favour of management. Which is accordingly decided.

Award is accordingly passed.

Dated:-22.09.2015

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 12 जनवरी, 2016

का.आ. 113.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखनी के पंचाट (संदर्भ संख्या 29/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/01/2016 को प्राप्त हुआ था।

[सं. एल-22013/1/2016-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th January, 2016

S.O. 113.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/ 29/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 12.01.2016.

[No. L-22013/1/2016- IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-CUM-VIADDL. DIST. & SESSIONS COURT, GODAVARIKHANI

Present :

SRI G.V. KRISHNAIAH, Chairman-cum-
Presiding Officer

INDUSTRIAL DISPUTE No. 29 OF 2013

Tuesday, the 17th day of November, 2015

Between:-

A.KARUNAKAR REDDY, S/o. Yadava Reddy, Age 44 years,
C/o. Sri B. Amarender Rao, Advocate, Behind Bharath Petrol
Bunk,

Raghupathirao Nagar, Ganga Nagar,

PO: Godavarikhani-505209, Dist. Karimnagar.
— Petitioner.

A n d

1. The Superintendent of Mines, Singareni Collieries Co. Ltd., GDK No.1 Incline, RG-I Area, PO: Godavarikhani, Dist. Karimnagar.
2. The Chief General Manager, Singareni Collieries Co. Ltd., Ramagundam Area-I, PO: Godavarikhani, Dist. Karimnagar.
3. The Chairman & Managing Director, Singareni Collieries Co. Ltd., PO. Kothagudem, Dist. Khammam.

— Respondents.

This case coming before me for final hearing in the presence of Sri B. Amarender Rao, Advocate for the petitioner and of Sri D. Krishna Murthy, Advocate for the respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

AWARD

1. This petition is filed U/Sec. 2(A)(2) of I.D. Act challenging the dismissal of the petitioner by the respondent No.2 and to direct the respondents' company to reinstate the petitioner into service with continuity of service, all other consequential attendant benefits full back wages.

2. Petitioner was dismissed from service by respondent No.2 vide office order dt.22-11-2001 with the following charge.

CHARGE:-

“25(25) - Habitual late attendance or habitual absence from duty without sufficient cause during the year 2000”.

3. Petitioner challenges his dismissal order. The petitioner was appointed as Badli Filler against the absenteeism vacancies of fillers under the dependent employment scheme during the year 1996 and he discharged his duties to the fullest satisfaction of his superiors till his dismissal from service. The attendance particulars of the petitioner are as follows:-

Sl.No.	Particulars of pay sheet & year	Total musters
1.	Pay sheet of December -12/1996	(140) musters
2.	Pay sheet of December -12/1997	(223) musters
3.	Pay sheet of December -12/1998	(82) musters
4.	Pay sheet of December -12/1999	(80) musters
5.	Pay sheet of December -12/2000	(83) musters

While the petitioner was working as Badli Filler (Underground), as the underground atmosphere and coal dust did not suit to his health, the petitioner suffered from chronic ill-health, fever, joint & body pains diseases from the year 1998 – 1999. Petitioner underwent prolonged medical treatment in the respondents' company hospitals and other referral hospitals at regular intervals. But due to underground work, his health was not cured completely.

4. Domestic enquiry was not conducted fairly and properly without giving sufficient opportunity to the petitioner to defend himself. 2nd respondent passed the dismissal order straight away without issuing prior show cause notice proposing the said capital punishment of dismissal from service. The petitioner had put in more than the 100 musters and infact more than double i.e., (223) musters during the year 1997. As such, it cannot be termed as misconduct. There is reasonable and sufficient cause for the alleged absence of the petitioner. In pursuance of the respondents' letters, petitioner appeared before the Head Office, Kothagudem during the years 2005 and 2012, but he was not given any posting orders. Eversince the date of dismissal from service, the petitioner is facing lot of hardship and misery to eke out livelihood for all his family members. Hence, the petitioner prays to allow the petition.

5. In response to this challenge, respondents filed counter justifying the dismissal of the petitioner. The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1). Petitioner was dismissed from service in the year 2001. Petitioner kept quiet for all these years and filed this petition after lapse of 12 years which is barred by limitation U/Sec.2A(3) of Industrial Disputes Amendment Act, 2010. The petitioner was appointed as Badli Filler in the respondents company on 24-07-1996. As the petitioner was a chronic absentee who had put in only 83 musters in the year 2000, he was charge sheeted. According to Section 52(2) of the Mines Act, 1952 an underground employee is required to put in minimum musters of 190 and surface employee is expected to put in minimum of 240 musters. The following attendance particulars of the petitioner indicate the fact that the petitioner was not regular to his duties during the period from 1996-2001, his attendance particulars as under:-

Sl.No.	Year	No. of musters.
1.	1996	140
2.	1997	225
3.	1998	82
4.	1999	80
5.	2000	83
6.	Sept., 2001	9

During the period from January, 2000 to December, 2000, the petitioner had put in only 83 musters. As the above act amounted to misconduct under Standing Orders Clause No.25.25 of the company, the petitioner was charge sheeted and enquiry notice was sent to his residential address through RPAD, but the same was returned as undelivered. As such, paper publication of charge sheet-cum-enquiry notice was given in “Vaartha Telugu news daily paper” on 03-06-2001 with a direction to attend enquiry on 14-6-2001, but the petitioner neither appeared personally before the enquiry officer nor informed the reason for his absence. Therefore ex-parte enquiry was conducted. After considering the documentary evidence and other evidence on record, the enquiry officer submitted his unbiased report holding that the petitioner was found guilty of misconduct. The petitioner was issued show cause notice along with copies of enquiry proceedings and enquiry report giving an opportunity to submit his explanation if any, but the petitioner failed to submit any representation. The respondents’ company dismissed the petitioner from service vide letter dt.25-11-2001 stating that the petitioner was a chronic absentee. Therefore, the respondents pray to dismiss the petition without granting any relief to the petitioner.

6. During the course of hearing, Ex.W-1 to Ex.W-8 and Ex.M-1 to Ex.M-9 are marked.

7. Heard both sides. Perused the material papers on record.

8. On a consideration of respective contentions of both parties, the following point requires to be determined:-

“Whether the punishment of dismissal of the petitioner is justified and proportionate?”

9. POINT:- The allegation levelled against the petitioner is that he had put in only 83 musters and remained absent on rest of the days during the period from January, 2000 to December, 2000. Charge sheet is marked as Ex.M-1 which is returned unserved under Ex. M-2. Charge sheet-cum-enquiry notice is marked as Ex.M-3 and paper publication is marked as Ex.M-4. Enquiry proceedings are marked as Ex.M-5 and enquiry report is marked as Ex.M-6. The petitioner was dismissed from service by order dt. 22-11-2001 under Ex.M-9.

10. The petitioner was appointed as Badli Filler under dependent employment scheme in place of his father, by office order dt.21/22-7-1996 under Ex.W-1. From July, 1996 to December, 1996, he had put in 140 musters as per Ex.W-6 pay sheet for the month of December, 1996. During the year 1997, he put in total (223) musters as per Ex.W-7. Petitioner was called for interview by the High Power Committee for reappointment on 21-4-2005, as per Ex.W-5. This petition is filed in the year 2013. Hence it cannot be said that the petitioner approached this court with abnormal delay. Infact, a worker is entitled to legal aid as per the

provisions of Legal Services Authorities Act, 1987. Even though this Industrial Tribunal has been functioning in this place since 1988, there is no awareness for legal aid for industrial workers. Therefore, this petition cannot be dismissed on the point of delay in approaching this Tribunal.

11. In a decision reported in DIVISION BENCH JUDGMENT OF GUJARATH HIGH COURT REPORTED IN 1982 LAB.IC.1031 BETWEEN: R.M., PARMAR VRS., GUJARATH ELECTRICITY BOARD, the following guide lines were laid down in the matter of inflicting punishment of discharge and dismissal:-

1. In a disciplinary proceeding for an alleged fault of an employee, punishment is imposed not in order to seek retribution or to give vent to feelings of wrath.
2. The main purpose of a punishment is to correct the fault of the employee concerned by making him more alert in the future and to hold out warning to the other employees to be careful in the discharge of their duties so that they do not expose themselves to similar punishment. And the approach to be made is the approach parents make towards an erring or misguided child.
3. It is not expedient in the interest of the administration to visit every employee against whom a fault is established with the penalty of dismissal and to get rid of him. It would be counter-productive to do so for it would be futile to expect to recruit employees who are so perfect that they would never commit any fault.
4. In order not to attract the charge of arbitrariness it has to be ensured that the penalty imposed is commensurate with the magnitude of the fault. Surely one cannot rationally or justly impose the same penalty for giving a slap as one would impose for homicide.
5. When different categories of penalties can be imposed in respect of the alleged fault, one of which is dismissal from service, the disciplinary authority perforce is required to consult himself for selecting the most appropriate penalty from out of the range of penalty available that can be imposed, having regard to the nature, content and gravity of the default. Unless the disciplinary authority reaches the conclusion that having regard to the nature, content and magnitude of the fault committed by the employee concerned, it would be absolutely unsafe to retain him in service, the maximum penalty of dismissal cannot be imposed. If a lesser penalty can be imposed without seriously jeopardizing the interest of the employees the disciplinary authority cannot

impose the maximum penalty of dismissal from service. He is bound to ask the inner voice and rational faculty why a lesser penalty cannot be imposed.

6. It cannot be over looked that by and large it is because the maximum penalty is imposed and total ruination stares one in the eyes that the employee concerned is obliged to approach the court and avail the costly time-consuming machinery to challenge in desperation the order passed by the disciplinary authority. If a lesser penalty was imposed, he might not have been obliged to take recourse to costly legal proceedings which result in loss of public time and also result in considerable hardship and misery to the employee concerned.
7. When the disciplinary proceedings end in favour of the employee, the employer has often to pay back wages say for about 5 years without being able to take work from the employee concerned. On the other hand, the employee concerned would have had to suffer economic misery and mental torture for all these years. Even the misery of being obliged to remain idle without work would constitute an unbearable burden. And when the curtain drops every one is left with a bitter taste in the mouth. All because the extreme penalty of dismissal or removal is imposed instead of a lighter one.
8. Every harsh order of removal from service creates bitterness and arouses feeling of antagonism in the collective mind of the workers and gives raise to a feeling of class conflict. It does more harm than good to the employer as also to the society.
9. Taking of a petty article by a worker in a moment of weakness when he yields to a temptation does not call for an extreme penalty of dismissal from service. More particularly, when he does not hold a sensitive post of trust (pilferage by a cashier or by a store keeper from the stores in his charge, for instances, may be viewed with seriousness). A worker brought up and living in an atmosphere of poverty and want when faced with temptation, ought not to, but may yield to it in a moment of weakness. It cannot be approved, but it can certainly be understood particularly in an age when even the rich commit economic offences to get richer and do so by and large with impunity (and even tax evasion or possession of black money is not considered to be dishonorable by and large). A penalty of removal from service is therefore not called for when a poor worker yields to a momentary temptation and commits an offence which often passed under the name of kleptomania when committed by the rich.

12. It is contended by the learned counsel for the petitioner that as Badli Filler, petitioner was appointed in the respondents company as Badli Filler by order dt. 21/22-7-1996 on compassionate grounds and he put-in best attendance in 1996 and 1997. Due to working in the underground mine, petitioner suffered from chronic ill-health and joint pains and he underwent prolonged medical treatment in the company hospital and other referral hospitals at regular intervals. He could put in 83 musters in the year 2000 which fell short of 17 musters as against the required for 100 musters. Hence, he contended that the extreme punishment of dismissal from service is not justified. On the other hand it is argued on behalf of the learned counsel for the respondents that the petitioner was a chronic absentee, he had put-in only 83 musters in the year 2000, that he did not improve his attendance and that from the year 1998 he has put in less musters of 80 and odd per year; as such he was dismissed from service by order dt. 25-11-2001.

13. Admittedly petitioner joined in July 1996, he had put-in good attendance of 140 musters in 6 months of 1996 and 225 musters in the year 1997. Therefore, in view of my above discussion and documentary evidence on record, I hold that extreme punishment of dismissal is shockingly disproportionate and arbitrary; and that this is a fit case where this Court can exercise discretion U/Sec. 11 of ID Act and the petitioner deserves to be reinstated into service as afresh Badli Filler to meet the ends of justice.

14. In the result, the order of dismissal dt. 22-11-2001 marked as Ex.M-9 is set aside and the respondents are directed to reinstate the petitioner into service as "Afresh Badli Filler" subject to physical fitness for the post. The petitioner is not entitled to any back wages, continuity of service or any other attendant benefits.

Typed to my dictation, corrected and pronounced by me in open Court, on this the 17th day of November, 2015.

G. V. KRISHNAIAH, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For workman:-

-Nil-

For Management:-

Nil-

EXHIBITS

For workman:-

Ex.W-1 Dt. 21/22-7-1996 Appointment order of Badli Filler x.copy

Ex.W-2 Dt. 30-11-2000 Transfer order x.copy

Ex.W-3 Dt. 22-11-2000 Dismissal order x.copy

Ex.W-4	Dt. 23-11-2001	Office memo (dismissal order)
Ex.W-5	Dt. 11-04-2005	Interview call letter of petitioner to attend High Power Committee at Head Office, Kothagudem.
Ex.W-6	Dt. —	Payment sheet for the month of 12/1996
Ex.W-7	Dt. —	Payment sheet for the month of 12/1997
Ex.W-8	Dt. 20-07-2013	Demand letter with ack., For Management:-
Ex.M-1	Dt. 25-02-2001	Charge sheet o/copy
Ex.M-2	Dt. 20-04-2001	Undelivered postal returned cover with ack.,
Ex.M-3	Dt. —	Charge sheet-cum-enquiry notice
Ex.M-4	Dt. 03-06-2001	Vaaritha Telugu daily newspaper
Ex.M-5	Dt. 14-06-2001	Enquiry proceedings
Ex.M-6	Dt. —	Enquiry report
Ex.M-7	Dt. 12-08-2001	Show cause notice
Ex.M-8	Dt. 16-08-2001	Ack., to show cause notice
Ex.M-9	Dt. 22-11-2001	Dismissal order.

नई दिल्ली, 12 जनवरी, 2016

का.आ. 114.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखन्नी के पंचाट (संदर्भ संख्या 21/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/01/2016 को प्राप्त हुआ था

[सं. एल-22013/1/2016-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th January, 2016

S.O. 114.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/ 21/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 12.01.2016.

[No. L-22013/1/2016-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-VIADDL. DIST. & SESSIONS COURT, GODAVARIKHANI

Present :

SRI G. V. KRISHNAIAH, Chairman-cum-
Presiding Officer

INDUSTRIAL DISPUTE No. 21 OF 2013

Saturday, the 7th day of November, 2015

Between:-

Thatikonda Sammaiah, S/o. Gattaiah,
Age 50 years, Occ: Coal Filler,
R/o. Laxmipuram,
Mandal Ramagundam
Dist. Karimnagar

...Petitioner

And

1. The Colliery Manager, VI Incline,
Singareni Collieries Co.Ltd.,
Godavarikhani.

2. The Chief General Manager,
Singareni Collieries Co.Ltd.,
RG-I, PO Godavarikhani,
Dist. Karimnagar.

3. The Managing Director (Adm),
Singareni Collieries Co.Ltd.,
PO. Kothagudem,
Dist.Khammam

...Respondents.

This case coming before me for final hearing in the presence of Sri S.Bhagavantha Rao, Advocate for the petitioner and of Sri D.Krishna Murthy, Advocate for the respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

AWARD

1. This petition is filed U/Sec. 2(A)(2) of I.D. Act challenging the dismissal of the petitioner by the respondent No.2 praying for his reinstatement into service by giving relief of Rs.3,000/- per month as MMC and also Rs.6,000/- till one gives employment.

2. Petitioner was dismissed from service by respondent No.2 vide office order dt.13-01-2000 with the following charge.

CHARGE:-

“Clause 25.25 - Habitual late attendance or habitual absence from duty without sufficient cause”.

3. Petitioner challenges his dismissal order. The petitioner was appointed as an employee on 1-1-1970 and he discharged his duties to the fullest satisfaction of his superiors till his dismissal from service on 11-06-2000 by the 2nd respondent. The petitioner got employment in place

of his father-in-law under “settlements” of 12(3) of I.D., Act. The health of the petitioner was not good and he could not attend to his duty in 1999 and the respondent suspended the petitioner from service from 21-11-1999 to 30-11-1999. Subsequently, the petitioner was allowed to attend his duty. As the petitioner’s eyes vision deteriorated, he was referred to Area Hospital on 22-8-1999 by the Dy.CME, GDK and the petitioner took treatment upto 18-10-1999. The Chief Medical Officer, Kothagudem, made the petitioner fit on 1-10-1999. The petitioner’s vision did not improve and he used to absent frequently in 1999. The petitioner put in only 130 musters in 1999.

4. The petitioner is entitled to MMC of Rs.2,000/- and Rs.6,000/- from 1-4-1998 and 1-5-2008, but the respondents company without declaring “unfit” dismissed from service in the year 1999. Punishment of dismissal from service is extremely harsh, highly excessive and shockingly disproportionate. Hence, the petitioner prays to allow the petition.

5. In response to this challenge, respondents filed counter justifying the dismissal of the petitioner. The respondents company being mining industry is a Central Government subject and the petitioner ought to have approached the CGIT, Hyderabad. This petition is not maintainable before this Court and is liable to be dismissed.

The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1). The petitioner was dismissed from service in the year 2000. The petitioner kept quiet for all these years and filed this petition after lapse of 14 years which is barred by limitation U/Sec.2A(3) of Industrial Disputes Amendment Act, 2010. The petitioner was appointed in the respondents company on 25-11-1970. The petitioner was irregular to his duties. According to Section 52(2) of the Mines Act, 1952 an underground employee is required to put in minimum musters of 190 and surface employee is expected to put in minimum of 240 musters. The following attendance particulars of the petitioner indicate the fact that the petitioner was not regular to his duties and in no year he had put in 190 musters during the period from 1996 to 2000.

Sl.No.	Year	No. of musters.
1.	1996	148
2.	1997	115
3.	1998	92
4.	1999	70
5.	JAN-APR 2000	18

During the period from January, 1999 to December, 1999, the petitioner had put in only 70 musters. As the above act amounted to misconduct under Standing Orders Clause No. 25.25 of the company, the petitioner was charge

sheeted. After considering the documentary evidence and other evidence on record, the enquiry officer submitted his unbiased report holding that the petitioner is guilty of misconduct under company standing orders.

6. Petitioner was a chronic absentee and he had put in only 92 musters in the year 1998. As such the petitioner was issued charge sheet in the year 1999 and disciplinary proceedings were conducted. The respondent suspended the petitioner for a period of 10 days. In spite of being punished once, petitioner failed to improve his attendance. As such, the petitioner was charge sheeted once again in the year 2000. Petitioner suffered from defective vision of left eye due to cataract and underwent ECCE with PBI left eye at Main Hospital, Kothagudem on 10-9-1999 and after taking treatment he was found fit for duty. The petitioner participated in the enquiry conducted by the respondents. During the enquiry, petitioner stated that due to ill-health, he could not attend duties. Therefore he remained absent from duties and voluntarily accepted the charge levelled against him, by affixing his thumb impression thereon. The petitioner was issued show cause notice duly enclosing enquiry proceedings report with an advise to make his representation if any within seven days of the notice. The petitioner received show cause notice on 9-5-2000 by affixing his thumb impression, but failed to submit his explanation. Accordingly, the respondents company dismissed the petitioner from service. The petitioner is not entitled to MMC @ Rs.3,000/- or Rs.6,000/- from 01-04-1998 or declare him medically unfit. The respondents company after considering the past record of the petitioner and on findings that there were no extenuating circumstances for taking a lenient view was constrained to dismiss the petitioner from service. The respondents company conducted the enquiry proceedings duly in accordance with the principles of natural justice and law giving full opportunity to the petitioner. Therefore, the respondents pray to dismiss the petition without granting any relief to the petitioner.

7. During the course of hearing, Ex.W-1 to Ex.W-3 and Ex.M-1 to Ex.M-7 are marked.

8. Heard both sides. Perused the material papers on record.

9. On a consideration of respective contentions of the parties, the following points require to be determined:-

“Whether the punishment of dismissal of the petitioner is justified and proportionate?”

10. **POINT :** The main charge levelled against the petitioner is that the petitioner habitually absented for his duties and he had put in only 70 musters from January, 1999 to December, 1999. Charge sheet dt.19-3-2000 is marked as Ex.M-1. Enquiry call letter is marked as Ex.M-2. A declaration dt.5-4-2000 was obtained from the petitioner stating that he does not have any objection to conduct enquiry proceedings in English, under Ex.M-3. As can be seen from the charge sheet and other enquiry proceedings,

the petitioner is illiterate; he cannot even put his signature and hence put his thumb impression. The enquiry proceedings under Ex.M-4 and enquiry report under Ex.M-5 are cyclostyled formats. Particulars of petitioner, charge sheet number and alleged answers of petitioner as “yes” were filled up in the said cyclostyled proforma containing standard questions. There was no scope for recording specific defence of the petitioner and to explain reasons for his alleged absenteeism.

11. On perusal of the record, it is a clear case where 29 years of service put in by the petitioner was brushed aside on the ground of unauthorized absence, without making proper enquiry into the cause of absence of the petitioner. Admittedly the petitioner was an underground worker in the mines and there was every possibility that after 29 years of service, he was unable to do his duties regularly. This Tribunal will be failing in its duty, if the manner in which the domestic enquiry was conducted is not referred to. The domestic enquiry proceedings and report is a cyclostyled form and it is mentioned in the report as though the petitioner admitted his unauthorized absence and his thumb impressions were taken. Unfortunately, the respondents failed to consider the fair record of the petitioner for 29 years and resorted to the extreme step of dismissal from service. By taking into account the perfunctory manner in which domestic enquiry was conducted and the disproportionality of the punishment, this Tribunal has no hesitation to hold that disciplinary action taken by the respondents is unjustified, harsh and amounting to victimization. When an illiterate worker suddenly finds that he is dismissed from service abruptly on the ground of absenteeism, there is bound to be delay in approaching the Tribunal, considering the lack of awareness among the workers and lack of financial support.

12. Subsequent to the filing of this petition, the petitioner is said to be suffering from paralysis. Even otherwise the petitioner passed the age of superannuation. Therefore, in order to serve the ends of justice, it is held that the petitioner is deemed to have retired from service voluntarily from the date of his dismissal from service i.e., w.e.f., 13-06-2000. The petitioner shall be extended all consequential service benefits and retirement benefits as if he is deemed to have retired from service voluntarily from 13-6-2000.

13. In the result, dismissal order dt. 11-6-2000 under Ex.M-7 is set aside and the petitioner shall be deemed to have retired from service voluntarily w.e.f., 13-6-2000. The respondents shall extend all consequential service benefits and retirement benefits to the petitioner.

Typed to my dictation, corrected and pronounced by me in open Court, on this the 7th day of November, 2015.
SRI G. V. KRISHNAIAH, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For workman:-

-Nil-

For Management:-

Nil-

EXHIBITS

For workman:-

Ex.W-1 Dt. 11-06-2000 Dismissal order x.copy

Ex.W-2 Dt. 14-07-2000 Demand letter

Ex.W-3 Dt. 19-03-2000 Enquiry report, photostat copy

For Management:-

Ex.M-1 Dt. 19-03-2000 Charge sheet

Ex.M-2 Dt. 02-04-2000 Enquiry notice with ack.,

Ex.M-3 Dt. 05-04-2000 Declaration of petitioner on enquiry proceedings in English

Ex.M-4 Dt. — Domestic enquiry proceedings

Ex.M-5 Dt. 19-03-2000 Enquiry report

Ex.M-6 Dt. 21/27-4-2000 Show cause notice

Ex.M-7 Dt. 11-06-2000 Dismissal order.

नई दिल्ली, 12 जनवरी, 2016

का.आ. 115.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.सी.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय, गोदावरीखनी के पंचाट (संदर्भ संख्या 31/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/01/2016 को प्राप्त हुआ था।

[सं. एल-22013/1/2016-आईआर (सी-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th January, 2016

S.O. 115.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Indus.Tribunal-cum-Labour Court, Godavarikhani (IT/ID/31/2013) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 12.01.2016.

[No. L-22013/1/2016-IR (C-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

**BEFORE THE CHAIRMAN, INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT-VIADDL. DIST. & SESSIONS
COURT, GODAVARIKHANI**

Present :

SRI G. V. KRISHNAIAH, Chairman-cum-
Presiding Officer

INDUSTRIAL DISPUTE No. 31 OF 2013Monday, the 16th day of November, 2015**Between:-**

K. Eshwaraiah, S/o. Rajamallaiiah,
Age 45 years, E.C.No.2900002,
Ex. Badli Filler,
C/o. Sri B.Amarender Rao,
Advocate, Ganga Nagar,
PO: Godavarikhani-505209,
Dist. Karimnagar

...Petitioner

And

1. The Superintendent of Mines,
VI Incline, Singareni Collieries Co. Ltd.,
SRP No.1 Incline, SRP Area,
PO: Srirampur,
Dist.Adilabad.
2. The General Manager,
Singareni Collieries Co.Ltd.,
Srirampur Area, PO: Srirampur,
Dist.Adilabad.
3. The Chairman & Managing Director,
Singareni Collieries Co.Ltd.,
PO. Kothagudem,
Dist.Khammam

...Respondents

This case coming before me for final hearing in the presence of Sri B.Amarender Rao, Advocate for the petitioner and of Sri D.Krishna Murthy, Advocate for the respondents; and having been heard and having stood over for consideration till this day, the Tribunal delivered the following:-

AWARD

1. This petition is filed U/Sec. 2(A)(2) of I.D. Act challenging the dismissal of the petitioner by the respondent No.2 and to direct the respondents' company to reinstate the petitioner into service with continuity of service, all other consequential attendant benefits full back wages.

2. Petitioner was dismissed from service by respondent No.2 vide office order dt.04-12-2003 with the following charge.

CHARGE:-

"25.25 - Habitual absenteeism from duty without sufficient cause during the year 2002".

3. Petitioner challenges his dismissal order. The petitioner was appointed as Badli Filler in the year 1996 and he discharged his duties to the fullest satisfaction of his superiors till his dismissal from service. The petitioner put in more than (180) physical musters every year as against the minimum (100) musters. The performance of the petitioner from 1996 till 2002 is very good. The (3 pay

sheets of 1999 to 2001 showing the cumulative total musters put in by the petitioner are as follows:-

Sl.No.	Particulars of pay sheet & year	Total musters
1.	Pay sheet of December, 1999	(161) musters
2.	Pay sheet of August, 2000 (by 12/2000, he put in more than 160 musters)	(85) musters
3.	Pay sheet of December, 2001	(131) musters

While the petitioner was working as Badli Filler (Underground), as the underground atmosphere and coal dust did not suit his health, the petitioner suffered from chronic ill-health, fever, joint & body pains diseases from the year 2001 onwards. Petitioner underwent prolonged medical treatment in the respondents' company hospitals and other referral hospitals at regular intervals. But due to underground work, his health did not recoup.

4. Domestic enquiry was not conducted fairly and properly without giving sufficient opportunity to the petitioner to defend himself. 2nd respondent passed the dismissal order straight away without issuing prior show cause notice proposing the said capital punishment of dismissal from service. The petitioner had put in more than 150 musters in several years prior to 2002. As such, it cannot be termed as misconduct. In pursuance of the respondents' letter dt.14-4-2005 and 9-4-2012, petitioner appeared before the Head Office, Kothagudem, but he was not given any posting orders. Eversince the date of dismissal from service, the petitioner lost his livelihood and incurred huge debts for his medical and domestic expenses. Petitioner is facing lot of hardship and misery to eke out livelihood for all his family members. Hence, the petitioner prays to allow the petition.

5. In response to this challenge, respondents filed counter justifying the dismissal of the petitioner. The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1). The petitioner was dismissed from service in the year 2003. The petitioner kept quiet for all these years and filed this petition after lapse of 10 years which is barred by limitation U/Sec.2A(3) of Industrial Disputes Amendment Act, 2010. The petitioner was appointed in the respondents company on 16-08-1996. As the petitioner was a chronic absentee who had put in only 47 musters in the year 2002, he was charge sheeted. According to Section 52(2) of the Mines Act, 1952 an underground employee is required to put in minimum musters of 190 and surface employee is expected to put in minimum of 240 musters. The following attendance particulars of the petitioner indicate the fact that the petitioner was not regular to his duties and in no year he had put in 190 musters.

Sl.No.	Year	No. of musters.
1.	1997	152
2.	1998	156
3.	1999	161
4.	2000	135
5.	2001	131
6.	2002	47

During the period from January, 2002 to December, 2002, the petitioner had put in only 47 musters. As the above act amounted to misconduct under Standing Orders Clause No.25.25 of the company, the petitioner was charge sheeted. Due to his prolonged absenteeism, R-1 was bound to initiate disciplinary proceedings against the petitioner in the year 2003 for his unauthorized absence for 251 days in the year 2002. Respondents' company conducted the enquiry duly following the principles of natural justice and the petitioner participated in the enquiry. Having proved to be guilty, the respondents' company put the petitioner under observation. But the petitioner failed to improve his attendance during observation period. Therefore, the respondents' company dismissed the petitioner from service w.e.f., 4-12-2003. Though the petitioner received charge sheet, he failed to submit his explanation.

6. Show cause notice along with copies of enquiry proceedings and enquiry report was sent to the residential address of the petitioner giving an opportunity to submit his explanation if any which was returned as undelivered by the postal authorities. Later respondents' company gave paper publication in Andhra Jyothi daily on 18-9-2003 advising the petitioner to collect the copies of enquiry proceedings so as to enable the petitioner to submit his representation if any within 7 days. But the petitioner failed to submit his representation. On 15-4-2003 respondents' company advised the petitioner to attend counseling session. Petitioner was counseled on 12-5-2003 to improve his attendance. Petitioner requested the respondents' company to excuse him for his misconduct and assured to improve his attendance if opportunity was given. As such, the petitioner was given an opportunity and he was kept under observation for a period of 3 months. But the petitioner failed to improve his attendance during the observation period. The respondents' company dismissed the petitioner from service w.e.f., 04-12-2003 stating that the petitioner was a chronic absentee. Therefore, the respondents pray to dismiss the petition without granting any relief to the petitioner.

7. During the course of hearing, Ex.W-1 to Ex.W-7 and Ex.M-1 to Ex.M-9 are marked.

8. Heard both sides. Perused the material papers on record.

9. On 24-11-2014, counsel for the petitioner filed Memo U/Sec.11-A of ID Act praying to decide the quantum of relief to which the petitioner is entitled to, on the basis of the evidence on record and gravity of the charge.

10. On a consideration of respective contentions of both parties, the following point requires to be determined:-

“Whether the punishment of dismissal of the petitioner is justified and proportionate?”

11. **POINT:-** The main charge levelled against the petitioner is that the petitioner habitually absented for his duties and put in 47 musters only from January, 2002 to December, 2002. Charge sheet dt.25-2-2003 is marked as Ex.M-1. The letter dt.15-4-2003 advising the petitioner to see the Welfare Officer with family members for counseling under Ex.M-2 shows that the petitioner had put in 135 musters during the year 2000 and 131 musters during the year 2001. In the undertaking letter-cum-explanation dt.12-5-2003 under Ex.M-3 the petitioner stated that due to jaundice, he underwent treatment and hence could not attend to his duties regularly. Enquiry proceedings and medical certificates submitted by the petitioner before the enquiry officer are marked as Ex.M-4. The petitioner clearly deposed before the enquiry officer that he suffered from jaundice, general weakness and low B.P., which troubled him for not attending to his duties and that he took treatment in the company hospital and also at Karimnagar. The petitioner submitted treatment slips and medical certificates issued by the SCCL Hospital and private hospital, Karimnagar to substantiate his plea that he suffered from ill-health and took treatment during the year 2002. The OP tickets show that the petitioner took treatment during the period from 15-2-2002 to 12-6-2003 and the medical certificate dt.13-1-2003 shows that he was imparted treatment from 26-11-2002 to 13-11-2003 by Dr.T.Muralidhar Rao, MBBS., Karimnagar. These medical records were produced by the petitioner before the enquiry officer, in support of his defence that he could not attend to his duties regularly during the year 2002 on account of ill-health.

12. Pay slips for the years 1999 and 2001 marked as Ex.W-1 & W-3 show that the petitioner had put in 161 musters and 131 musters respectively during the above previous years. Call letters under Ex.W-5 & W-6 shows that the petitioner attended interview at Head Office, Kothagudem on 23-4-2005 and 27-4-2012, as directed by the respondents.

13. On perusal of the record, it is a clear case where the medical record produced by the petitioner and his oral evidence for the cause of absenteeism during the year 2002 was not considered in proper perspective by the enquiry officer. The enquiry report does not show the explanation and defence put forth by the petitioner. The OP medical prescriptions produced by the petitioner during

the enquiry shows that he was imparted treatment in the hospitals of the respondents' company and the contention of the respondents in their counter that the petitioner did not produce anybody as his witness does not hold any water. The medical prescriptions and certificates produced by the petitioner are not contradicted by the respondents. The previous attendance particulars of the petitioner during the previous periods from 1997 till 2002 (charge sheeted year) are as under:-

Sl.No.	Year	No. of musters.
7.	1997	152
8.	1998	156
9.	1999	161
10.	2000	135
11.	2001	131
12.	2002	47
(charge sheeted year)		

The petitioner was kept under observation period for 3 months from 12-5-2003 under Ex.M-3. But before expiry of the said observation period, enquiry was conducted by the respondents on 26-7-2003 and report was submitted holding the charge levelled against the petitioner is proved.

14. In view of the above evidence placed before this court and the facts and circumstances of the case discussed supra, the absence of the petitioner during the year 2002 is substantiated by the medical treatment under Ex.M-4 and the petitioner cannot be held guilty of serious misconduct, as his absence during the above period cannot be disputed in view of the OP chits produced by him during enquiry. In view of the plausible explanation put forth by the petitioner supported by medical documents, this court is constrained to hold that the extreme punishment of dismissal from service is shockingly disproportionate to the charge levelled against the petitioner and it is highly arbitrary.

15. It is true that the petitioner was dismissed from service during the year 2003; but the call letters under Ex.W-5 & W-6 proves that he was moving before the respondents till the year 2012. The petition is filed in the year 2013. Hence it cannot be said that the petitioner approached this court with abnormal delay. Infact, a worker is entitled to legal aid as per the provisions of Legal Services Authorities Act, 1987. Even though this Industrial Tribunal has been functioning in this place since 1988, there is no awareness for legal aid for industrial workers. Therefore, this petition cannot be dismissed on the point of delay in approaching this Tribunal.

16. In view of my above findings, the dismissal order passed by the 2nd respondent is liable to be set aside. In the facts and circumstances of the case, I am of the

considered opinion that reinstatement of the petitioner into service with continuity of service and attendant benefits while denying entire back wages would meet the ends of justice.

17. In the result, dismissal order dt.4-12-2003 under Ex.M-8 is set aside and the respondents' company is hereby directed to reinstate the petitioner into service with continuity of service and attendant benefits. However, he is not entitled to any back wages.

Typed to my dictation, corrected and pronounced by me in open Court, on this the 16th day of November, 2015.

G. V. KRISHNAIAH, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For workman:-	For Management:-
-Nil-	Nil-

EXHIBITS

For workman:-		
Ex.W-1 Dt.	—	Pay sheet for the month of December, 1999
Ex.W-2 Dt.	—	Pay sheet for the month of August, 2000
Ex.W-3 Dt.	—	Pay sheet for the month of December, 2001
Ex.W-4 Dt.	04-12-2003	Dismissal order x.copy
Ex.W-5 Dt.	14-04-2005	Letter issued to the petitioner to attend before the High Power Committee at Kothagudem, x.copy
Ex.W-6 Dt.	09-04-2012	Letter issued to the petitioner to attend interview at Head Office, Kothagudem.
Ex.W-7 Dt.	09-07-2013	Demand letter
For Management:-		
Ex.M-1 Dt.	25-02-2003	Charge sheet
Ex.M-2 Dt.	15-04-2003	Letter issued to the petitioner advising him to attend counseling.
Ex.M-3 Dt.	12-05-2008	Undertaking letter given by the petitioner during counseling for improvement his attendance
Ex.M-4 Dt.	26-07-2003	Enquiry proceedings
Ex.M-5 Dt.	05-08-2003	Enquiry report
Ex.M-6 Dt.	20-08-2003	Undelivered returned postal cover with ack.,

- Ex.M-7 Dt. 18-09-2003 Andhra Jyothi Telugu daily paper show cause notice published.
- Ex.M-8 Dt. 04-12-2003 Dismissal order
- Ex.M-9 Dt. 04-12-2003 Undelivered returned postal cover with ack.,

नई दिल्ली, 12 जनवरी, 2016

का.आ. 116.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी.सी.सी.एल. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 29/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/01/2016 को प्राप्त हुआ था।

[सं. एल-22012/27/2001-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th January, 2016

S.O. 116.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2001) of the Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure in the Industrial Dispute between the management of Damagoria Colliery of BCCL and their workmen, received by the Central Government on 12.01.2016.

[No. L-22012/27/2001- IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT

Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 29 OF 2001

PARTIES:

The Management of Damagoria Colliery, B.C.C.L.

Vs.

Sri Ashok Kumar Singh

REPRESENTATIVES:

For the management : Shri P. K. Das, Ld.
Advocate (BCCL)

For the union (Workman) : Shri S. K. Singh, Br. Secy,
JMS

Industry : Coal State : West Bengal

Dated : 15-12-2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/27/2001-IR(CM-II) dated 05.09.2001 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Damagoria Colliery under BCCL in denying regularization of Shri Ashok Kumar Singh, General Mazdoor Cat.I in the post of Dresser w.e.f. 09.06.1998 is legal and justified? If not, to what relief he is entitled to?”

Having received the Order No. L-22012/27/2001-IR(CM-II) dated 05.09.2001 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 29 of 2001 was registered on 24.09.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. The workman appeared through his representatives.

The workman has stated in his written statement that Sri Ashok Kumar Singh, General Mazdoor of Damagoria Colliery has been authorized to work as Dresser (T) with effect from 09.06.1998. As per norms of the Company and as per certified standing order, if a permanent workman is employed as probationer/trainee in a new permanent post more than six months he should be regularized, permanent in the post in which they have been working more than six months. Sri Ashok Kumar Singh has completed six months continuous service as Dresser on 09.06.1998 and he is entitled to be regularized as Dresser with effect from 09.06.1998. The dispute could not be settled amicably in conciliation proceeding and therefore the dispute was referred to the Tribunal. The workman has prayed through Union to hold that action of the management of Damagoria Colliery in not regularizing services of Sri Ashok Kumar Singh with effect from 09.06.1998 in the post of Dresser is illegal, unjustified and against the certified standing order of M/s. B.C.C.L. and pass order to regularize Sri Ashok Kumar Singh as Dresser with effect from 09.06.1998 and pay wages and other consequential benefit from the date of regularization as Dresser.

Management of M/s. B.C.C.L. has stated in their written statement that Sri Ashok Kumar Singh had been authorized to work as Dresser (T) with effect from 09.06.1998 and had been posted at Damagoria Colliery Dispensary. Certified Standing order defines only probationer and permanent workman but never directed for any

regularization or promotion as alleged by the Union. The regularization in a particular post depends upon the availability of post, vacancy and eligibility. Merely working in a certain post does not confer right to entitlement to be regularized in the post. Sri Ashok Kumar Singh was called for an interview for the post of Dresser (T) at B.C.C.L. H.Q. on 11.05.2001 and he had been qualified for the post of Dresser (T) by H.Q. Office Order No. BCCL/PA-V/Selection/Dresser(T)/02/1110-60 dated 25/26.03.2002 and he had been posted in the Central Hospital, Dhanbad for obtaining one year training experience from Company hospital. The Dresser in medical department is a very sensitive post which links with human lives. For being a regular Dresser, minimum qualification as per Cadre Scheme for Para-medical Staff (Dresser/OT Assistant) vide I.I.No.21 dated 1st August, 1990 is Matriculate with one year training certificate from Company Hospital / Recognized Institute / Govt. Hospital etc. Till date Sri Ashok Kumar Singh has objected through his Union to join at Central Hospital, Dhanbad due to pendency of case before the C.G.I.T., Asansol and as per Cadre Scheme, he has to obtain one years training experience from Company's Hospital which is the nearest Company hospital from CV Area as because there is no Co's Hospital anywhere at CV Area. The Management of Damagoria Colliery has not done any wrong by not regularizing Sri Ashok Kumar Singh as regular Dresser, but Sri Ashok Kumar Singh himself responsible for not obtaining one years experience from Company's Hospital (not from any Dispensary) as per Cadre Scheme of CIL in vogue. The claim is denied.

Documents have been filed by both the parties. Workman Sri Ashok Kumar Singh has filed affidavit in his oral evidence. He has been cross-examined on behalf of the Management of M/s. B.C.C.L. Management of M/s. B.C.C.L. has not filed any oral evidence in his support.

Both parties to the reference have filed written arguments. I perused the written arguments as well as record of the reference.

Management has stated in his written argument that Ashok Kumar Singh was posted as Dresser (T) at Laikdih Deep Colliery Dispensary in his existing capacity. There was no training provision facility at Laikdih Deep Colliery. That only by quoting a hospital wrongly nomenclatured which is in fact, a dispensary, the employee concerned wants himself to be regularized as Dresser without having any training of a Para-Medical staff. As per scheme of the company for selection of a person in a Dresser's job, he must have one year training certificate from Co's Hospital / Recognized Institute / Govt. Hospital. The claim of the Union that the concerned workman has been properly trained at Laikdih Dispensary has been vehemently denied as there is no training facility available in these two dispensaries to train a person properly as a Dresser. If untrained person will be regularized as Dresser violating the cadre scheme, it will cause irreparable harm to the

Company. The company has training facility at Central Hospital, Dhanbad which is properly equipped to train persons for the job of Dresser. Sri Ashok Kumar Singh was directed for reporting for training at CHD and unless a person is imparted with training properly, he cannot be selected to the post of Dresser. Hence the Company has advised Sri Ashok Kumar Singh to attend training programme at CHD in the year 2002 and in fact, all those persons who have attended training programme have already been regularized as Dresser vide Office Order No. BCCL/PA-V/Selection/Dresser(T)/2003/2837-2897 dated 10.11.2003 excluding Sri Ashok Kumar Singh, who deliberately did not attend training programme at CHD in spite of direction given to him by the Management vide order dated 26.03.2002, which was received by him.

On the other hand, Sri S.K. Singh, Area Working President of Janta Mazdoor Sangh has filed written argument on behalf of workman. He has stated that Sri Ashok Kumar Singh, concerned workman was appointed as Underground General Mazdoor, Cat-I. Sri Ashok Kumar Singh was directed to attend on 06.12.1996 in a suitability test for the post of Dresser (T) before the Constituted and approved job suitability committee vide Letter No. CPM/XII/03/B-10/96/2722 dated 27/28.11.1996. Sri Ashok Kumar Singh was selected for the post of Dresser (T) by the Job Suitability Committee and deployed to work as Dresser (T) at Laikdih Area Hospital. Sri Ashok Kumar Singh has started to work as Dresser (T) at Laikdih Area Hospital, Laikdih, M/s. B.C.C.L. as per office Order No. CPM/XII/03/B-10/97/211 dated 23/29.01.1997 and has worked at Laikdih Hospital till 08.12.1997. Sri Singh was transferred from Laikdih Area Hospital to Damagoria Hospital on 09.12.1996 vide office order No. 2773 and till date Sri Ashok Kumar Singh has been working as Dresser (T) at Damagoria Colliery Hospital. As per Certified Standing Order of M/s. B.C.C.L. if a permanent workman is employed as Probationer / Trainee in new permanent post for more than six months he should be regularized / permanent in the post in which they have been working more than six months. Union has filed certified copy of Certified Standing Order of M/s. B.C.C.L. Union has also stated that the Management of Damagoria Colliery of M/s. B.C.C.L. is trying to mislead the court through their written argument dated 11.08.2004 submitting irrelevant documents and irrelevant talks which are not fit for the case in hand. Sri Ashok Kumar Singh has been working as Dresser (T) with effect from 23/29.01.1997 to till date i.e. about seven years under different Medical Superintendent rank doctor of M/s. B.C.C.L. in several Hospitals of the M/s. B.C.C.L. The orders and circulars issued by the management in the year 2002 could not be admissible in the instant case as because the case was referred before the Tribunal in the year 2001 and industrial dispute was raised in the year 1998. The management of Damagoria Colliery has been depriving the workman concerned by not regularizing Sri Singh as Dresser after completion of six

month service with effect from 09.06.1998 on the basis of training formula which is against the certified standing order of M/s. B.C.C.L. The certified standing order of M/s. B.C.C.L. is the terms of employment of the workman with Company and Coal Company are to abide by the terms of employment, as per certified standing order it has been prayed in the written argument to ignore the illegal plea and argument of company and pass order as prayed in their written statement.

It is admitted fact that Sri Ashok Kumar Singh was appointed as UG General Mazdoor on 06.07.1991. The Chief Personnel Manager constituted committee to hold D.P.C. in respect of Sri Ashok Kumar Singh on 27/28.11.1996. The Chief Personal Manager by Order No. CPM/XII/03/B-10/97/211 dated 23/29.01.1997 deployed Sri Ashok Kumar Singh as Dresser (Training) and posted at Laikdih Deep Colliery Dispensary of M/s. B.C.C.L. in his existing capacity. The Chief Personnel Manager by Ref No. PM/XII/03/A-2/97/2773 dated 09.12.1997 transferred Sri Ashok Kumar Singh from Laikdih Deep Colliery Dispensary to Damagoria Dispensary in his existing grade and designation. The Chief Personnel Manager on recommendation of Departmental Selection Committee selected 17 workmen including the concerned workman Ashok Kumar Singh on the post of Dressers (T) in their existing pay-scale by a order Ref No. BCCL/PA-V/Selection/Dresser(T)/2002/1110-60 dated 25/26.03.2002. The above appointment letter dated 25/26.03.2002 contained instruction that all seventeen workmen selected for the post of Dresser (T) including the concerned workman Sri Ashok Kumar Singh will impart training for a period of one year. After completion of successful training of one year, as per rule of the company, they will be regularized in Technical Group (F) in pay-scale 3505-75-4856. In the same very appointment letter dated 25/26.03.2002 the Medical Superintendent, Central Hospital, Dhanbad was requested to arrange for training of all seventeen workmen named in the list including concerned workman Sri Ashok Kumar Singh. The copy of letter of Dy. Chief Personnel Manager, Ref. No. DCPM/XII/03/JM/2002/398 dated 30/31.07.2002 addressed to

Sri Subhash Kumar Singh, Area Working President, Janta Mazdoor Sangh has been filed on record. Dy. Chief Personnel Manager in reference to Letter No. JMS/AWP/CVA/2002/402 dated 10.4.2002 of Sri Subhash Kumar Singh has intimated that as per cadre scheme one year training is essential for the post of Dresser (T). Dy. Chief Personal Manager has requested Sri Subhash Kumar Singh, Area Working President, J.M.S. to advise concerned workman Ashok Kumar Singh to attend training so that he may be regularized after completion of training. From the contents of this letter it is evident that after deployment on the basis of Dresser (T) Sri Ashok Kumar Singh has not undergone training as per direction of M/s. B.C.C.L.

The concerned workman Sri Ashok Kumar Singh has stated in his affidavit dated 19.2.2013 in para-3 that he was

sent to Area Hospital, Laikdih by the Chief Personnel Manager, Chanch Victoria Area in accordance with the recommendation of job suitability Committee to take training as Dresser. The Management has categorically stated in para-5 that Sri Ashok Kr. Singh was required to undergo training in Central Hospital, Dhanbad. The Management of M/s. B.C.C.L. has stated in their written statement that at Laikdih there is no hospital, there is only a dispensary. Equipment and facility are only available at Central Hospital, Dhanbad for training purpose. Therefore the statement of Sri Ashok Kumar Singh does not inspire confidence that he imparted training at Laikdih Dispensary.

Photostat copy of Cadre Scheme for Para-Medical staff Dresser to Senior O.T. Assistant, NCWA-IV is on record. This Cadre Scheme has been issued on 1st August, 1990. As per Cadre Scheme, Matriculate with one years training certificate from the Co's hospital / recognized Institute / Govt. Hospital is the minimum qualification for the post of a Dresser. Sri Ashok Kumar Singh in cross-examination at Page 4 has stated " the qualification of Dresser is Matriculate ". From the evidence of Sri Ashok Kumar Singh it is apparent that he is not telling truth regarding training. He has tried to conceal the factum of training. From the materials available on record it is apparent that one year training along with matriculate is pre-requisite for the post of selection of Dresser (T) at M/s. B.C.C.L. H.Q. A workman can not regularize if he lacks necessary qualification or training as required by the guidelines of any industry or employer.

The Hon'ble Supreme Court in State of Karnataka & Ors. v/s M.L. Kesari & Ors. reported in A.I.R 2010 S.C page 2587 has held as follows :-

" where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal."

In the light of view expressed by Hon'ble Apex Court, since concerned workman Sri Ashok Kumar Singh has not imparted training which is pre-requisite for regularization, he is not entitled for regularization.

According to clause 7.2 of Standing order permanent workman has been defined as a workman who is employed on job permanent in nature for a period of at least six months or who has satisfactorily put in six months continuous service in a permanent post as a probationer. According to clause 7.3 of Standing Order, the probationer has been defined as a person who is provisionally employed to fill a vacancy in permanent post for a period not exceeding six months. The certified Standing orders are not applicable to the present case, because Sri Ashok Kumar Singh lacks basic qualification for the questioned post. The very basis for selection on the post of Dresser (T) was conditional to impart a training of one year. Sri Ashok Kumar Singh has not undergone training as directed by the Management

of Damagoria Colliery of M/s. B.C.C.L.

In view of discussions made above, I come to the conclusion that the action of the management of Damagoria Colliery under M/s. B.C.C.L. in denying regularization of Sri Ashok Kumar Singh, General Mazdoor, Cat-I, on the post of Dresser, with effect from 09.06.1998 is legal and justified and consequently, Sri Ashok Kumar Singh is not entitled to any relief.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 12 जनवरी, 2016

का.आ. 117.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 74/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/01/2016 को प्राप्त हुआ था।

[सं. एल-22012/56/2007-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th January, 2016

S.O. 117.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 74/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of Bonjemehari Colliery of M/s. ECL, and their workmen, received by the Central Government on 12/01/2016.

[No. L-22012/56/2007- IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 74 OF 2007

PARTIES:

The management of Bonjemehari Colliery of M/s. ECL

Vs.

Sri Chandan Gorain

REPRESENTATIVES:

For the management: P. K. Goswami, Ld. Adv. (ECL)

For the union (Workman): None

Industry : Coal

State : West Bengal

Dated : 17.12.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter NO. L-22012/56/2007-IR(CM-II) dated 18.09.2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

"Whether the demand of the union to step up the basic pay of Sri Chandan Gorain, E.P. Fitter Excavator Category-A at par with his junior is legal and justified? If so, to what relief is the workman entitled? "

Having received the Order NO. L-22012/56/2007-IR(CM-II) dated 18.09.2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 74 of 2007 was registered on 01.10.2007 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. P.K. Goswami is present on behalf of the management but none appears on behalf of the workman/union.

It is found from the record that the union is neither appearing nor taking any step from after 05.11.2007. Registered notices were issued on 19.12.2011, 01.05.2015 & 08.07.2014 but all in vain. So far 39 dates have been granted and after last notice 6 dates have been granted but no response from the union / workman. It seems that the workman / union has now no interest to proceed with this case further. As such the case is closed and accordingly a 'No Dispute Award' is hereby passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 12 जनवरी, 2016

का.आ. 118.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 52/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/01/2016 को प्राप्त हुआ था।

[सं. एल-22012/108/2007-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, 12th January, 2016

S.O. 118.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.No. 52/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited, and their workmen, received by the Central Government on 12/01/2016.

[No. L-22012/108/2007-IR (CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT:

Sri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 52 OF 2007

PARTIES:

The management of Bhanora Colliery of M/s. ECL

Vs.

Sri Denu Bouri

REPRESENTATIVES:

For the management : None

For the union (Workman) : None

Industry : Coal State : West Bengal

Dated : 14.12.2015

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter NO. L-22012/108/2007-IR(CM-II) dated 09.07.2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

Whether the action of the management of M/s. ECL in dismissing Shri Biswanath Bouri w.e.f. 12.04.2004 is legal and justified? If not, to what relief is the workman entitled? ”

Having received the Order No. L-22012/108/2007-IR(CM-II) dated 09.07.2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for

adjudication of the dispute, a Reference Case No. 52 of 2007 was registered on 26.07.2007 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Case called out. Both parties are absent.

Despite several adjournments any party neither appears nor takes any step. As such the case is closed and accordingly a ‘No Dispute Award’ is hereby passed.

ORDER

Let an “Award” be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 12 जनवरी, 2016

का.आ. 119.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एमईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 82/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12/01/2016 को प्राप्त हुआ था।

[सं. एल-22012/45/1996-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 12th January, 2016

S.O. 119.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 82/1997 of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Korea Colliery of SECL, and their workmen, received by the Central Government on 12/01/2016.

[No. L-22012/45/1996 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/82/97

Regional General Secretary,

MP Koyla Khadan Driver and Operators Sangh,

Chirimiri Area,

P.O Haldibadi,
Surguja (MP)

...Workman/Union

Versus

Sub Area Manager,
Korea Colliery of SECL,
Post Korea colliery,
Distt. Surguja (MP)

...Management

AWARD

Passed on this 7th day of December 2015

1. As per letter dated 10-3-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/45/96-IR(C-II). The dispute under reference relates to:

“Whether the action of the Sub Area Manager, Korea colliery of Chirmiri area of SECL in reverting Shri Raghupati Gorai S/o Shri S.C.Gorai from the post of Driver to Catgory II Mazdoor and ordering deduction of Rs.1000/- as damages from his salary vide order dated 14-4-94 is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim through Union at Page 4/1 to 4/4. Case of Ist party Union is employee Raghupati is its member. After failure of conciliation proceeding, dispute is referred by Government. That 2nd party issued order dated 14-4-94 reverting Ist party workman from post of Driver to post of General Manager Cat-II and deduction of Rs.1000 from his salary. The legality for enquiry conducted against workman is challenged. That the charges are vague and incapable of being replied. Enquiry Officer was not appointed as per service rules. Enquiry conducted against workman was empty formality. Principles of natural justice were violated. Enquiry Officer acted as prosecutor rather than judge. Enquiry Officer should have considered that the materials on record doesnot establish charges against workman. The punishment imposed against workman is too harsh looking to the nature of misconduct. The findings of enquiry Officer are perverse. The findings of enquiry Officer were not supplied to workman neither shown to him. It caused prejudice to him. Enquiry Officer did not apply his mind while holding the charge against workman held proved. On such ground, Ist party prays the order dated 14-4-94 be set aside.

3. 2nd party filed Written Statement at Page 7/1 to 7/10 opposing claim of workman. 2nd party submits that workman was appointed as Driver. He was deployed as Tipper Driver. He was served with several chargesheets in the past.

Workman was provided opportunity to improve. The details of chargesheets are given Charge sheet No. 3150-55 issued on 18-6-92 for misconduct under clause 26.5, 26.23, chargesheet No. 3173-79 was issued on 20-6-92. Chargesheet No. 3572 dated 3-9-92 was issued regarding habitual absence without sufficient cause under clause 26.24. That while workman was working as tipper driver in Korea colliery, suptd. Engineer submitted report dated 10-7-93. In pursuance of said report, chargesheet No. 674 was issued to workman on 20-7-93 regarding damage caused to the tipper and workman stopped the tipper work etc. workman submitted reply to chargesheet on 22-7-93. Reply was found unsatisfactory Shri Kewat Sr. Under Manager was appointed as Enquiry Officer and Shri Y.P.Trika, suptd. Engineer was appointed as management representative. The details of enquiry conducted against workman are given in para-10 of the statement. It is contented that workman participated in enquiry alongwith co-worker. The witnesses of management were cross-examined. It is reiterated that enquiry was properly conducted. Violation of principles of natural justice have been denied. As per report submitted by enquiry Officer, charges against workman were proved. Considering the proved misconduct, punishment was imposed. It is denied that punishment is harsh. According to 2nd party, the lesser punishment was imposed against the workman. Enquiry Report was supplied to him. On such ground, 2nd party submits that punishment imposed against workman is legal.

4. Considering evidence adduced by parties as per order dated 1-9-2014, enquiry conducted against workman is found proper and legal.

5. Considering pleadings on record and order of enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) Whether the punishment of reversion etc. imposed against workman is proper and legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

6. In view of enquiry conducted against workman is found legal as per order dated 1-9-2014, question whether misconduct alleged against workman are proved needs to be decided from evidence in Enquiry Proceedings. Both parties donot adduce evidence on other issues. The record of enquiry is produced at Exhibit M-1 to M-12. Enquiry Report is produced at Exhibit M-13. Order of punishment

impugned is produced at Exhibit M-14. Original enquiry proceeding is also produced. The statements of management's witness Sarvar Ali, V.K.N.Pillai Asstt. Foreman, recorded in Enquiry Proceeding shows that on 19-7-93 morning, Ist party workman had come to garage, tipper No. 9030 was driven by workman at around 1.30 AM. Workman returned to garage with said tipper. The welding of the trolley of tipper was found damage. Workman was directed to drive tipper No. 6406. Workman refused to drive said tipper saying that oil pressure was not working. The statement of management's witness Shri V.K.N.Pillai shows that in morning of 19-7-93, workman returned with Tipper No. 9030 after carrying one trip. The trolley of the tipper was damaged. Workman was given other tipper No. 6406. He refused to drive said tipper. The evidence on record of

Enquiry Proceeding is sufficient to prove the misconduct alleged against workman. For above reasons, I record my finding in Point No.1 in Affirmative.

7. **Point No.2-** In view of my finding in Point No.1 charges against workman are proved from evidence in Enquiry Proceedings, punishment of reversion imposed against workman and recovery of damages Rs.1000/- from salary of workman cannot be said excessive. Therefore I record my finding in Point No.2 in Affirmative.

8. In the result, award is passed as under:-

- (1) The action of the management is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer